INDIAN STATUTORY COMMISSION

VOLUME II

Report

of the

Indian Statutory Commission

Volume 2—Recommendations

CALCUTTA: GOVERNMENT OF INDIA
CENTRAL PUBLICATION BRANCH
1930

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INDIAN STATUTORY COMMISSION.

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See also

(1) Report of the Indian Central Committee—issued as Command Paper No. 3451 of 1929; and

Supplementary Note by Dr. A. Suhrawardy, M.L.A.—issued as Command Paper No 3525 of 1930.

(2) Review of Growth of Education in British India by the Auxiliary Committee appointed by the Commission—issued with Interim Report by the Commission as Command Paper No. 3407 of 1929.

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The total cost of Statutory Commission is estimated to be about 146 thousand pounds sterling, exclusive of the cost of the Auxiliary Committee on Education and of the Indian Central Committee and Provincial Committees.

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NOTE.

The table given at the end of para. 205 of Volume I (pp. 193 and 194), illustrating the size of the provincial general constituencies, does not refer to single member constituencies only. The "greatest" and "smallest" figures relate to constituencies, whether plural or single member; the "average" figures are averages per *member*.

INDIAN STATUTORY COMMISSION.

REPORT (VOLUME II.).

To

THE KING'S MOST EXCELLENT MAJESTY.

May it Please Your Majesty,

We, the Commissioners appointed for the purpose of inquiring into the working of the system of government, the growth of education, and the development of representative institutions in British India, and matters connected therewith, and of reporting as to whether and to what extent it is desirable to establish the principle of responsible government, or to extend, modify or restrict the degree of responsible government existing therein, including the question whether the establishment of second chambers of the local legislatures is or is not desirable; humbly submit to Your Majesty the second and concluding volume of our Report.

Arrangement of Volume II.

2. The former volume contained our survey of the principal matters necessary to be considered before entering upon the further task of making proposals and suggestions for the future. The present volume contains our recommendations, together with a statement of the reasons which have led us to put them forward.

In Part I we have set out "**The General Principles of our Proposals**". The constitutional scheme which we have been led to propound must be judged as a whole, and it must not be assumed that we should be prepared to recommend some part of it without regard to its relation to other parts. At the same time, we realise that, even if our general conceptions meet with support and approval, further discussion is likely to introduce some modifications. It appears to us, therefore, to be very necessary, both for the better understanding of the details of our own Report and for the consideration of any modifications consistent with its framework, which may be suggested hereafter, that the basis upon which the whole structure stands should first be clearly established.

In Part II, following the order of arrangement adopted by Mr. Montagu and Lord Chelmsford, we deal with the constitution of "**The Governors' Provinces**". These, however, do not make up the whole of British India and it is of great importance to consider what should be the course of constitutional development in the important areas which lie outside them. Accordingly, in Part III, we make our proposals in respect of "**The North-West Frontier Province and other Special Areas**".

Down to this point we have been dealing with different portions of British India in turn, but in Part IV we take up the constitutional problem of British India as a whole and this Part is entitled **" The Centre "**. It is divided into various chapters, in the first three of which we set out in detail our recommendations respecting the Central Legislature, and the Central Executive, and explain what would be the relations between them. This is followed by a chapter showing how the Centre and the Provinces would be related and by a further chapter which discusses the Authority of Government.

Part V deals with the very important matter already raised in Chapter 10 of Part I of our former volume and is entitled **" The Constitutional Problem in Relation to the Defence of India."** Part VI takes up the question which was marked down in Volume I, paragraphs 95-99 for separate treatment viz., **" The Future of Burma "**.

Part VII deals with **" Future Relations with the Indian States "** and is thus related to the subject matter of Chapter 9 of the first Part of our former volume.

Part VIII is entitled **" Indian Finance "** and consists of the valuable report made to us by our financial assessor, Mr. W. T. Layton. We shall indicate in earlier parts of this volume, especially in Part IV, the extent to which we adopt or make use of its contents. Part IX deals with **" The Future of the Services "**; Part X with **" The High Courts "**; and Part XI with **" Relations between the Home and the Indian Governments "**. Part XII brings this volume to a close with a brief **" General Survey and Conclusion "**.

PART I.—THE GENERAL PRINCIPLES OF OUR PROPOSALS.

CHAPTER 1.—INTRODUCTORY.

3. We have tried in Volume I to set out as fairly and impartially as we can the conditions of the Indian problem. First of all, we have endeavoured to bring before those whose duty it is to provide for India's constitutional future a realisation of the facts of the situation, those stubborn facts which no amount of rhetoric or appeal to abstract principles can alter. The immense area and population of India, the diversities of race, creed and caste, the existence of the Indian States, the predominance in numbers of the rural population, the high percentage of illiteracy, and the standing menace of the North-West Frontier, are all facts which no person, British or Indian, who has to deal with the constitutional problem of India can possibly ignore.

These facts must be faced. Their existence cannot in any way be allowed to invalidate the solemn pledge of the British people with regard to the progressive realisation of responsible government in British India. They may be compared to the physical features of a site for a city, which do not prevent the city being built, though they condition its plan and the length of time which must elapse before its completion.

4. Secondly, we have tried to give a picture of India as it is governed to-day under the reformed constitution. It is not possible to give the whole picture, for, in the background, stands the history of India. We have had no space to describe, even in outline, the involved and difficult course of events in this great sub-continent during the four or five thousand years that have elapsed since the Aryan invasions. We cannot sketch the formation and dissolution of kingdoms, the rise and dispersal of Buddhism, the series of incursions through the passes of the North-West, the history of the Mogul empire, the effect of the impact of Islam on the ancient fabric of Hindu civilisation, or the ever increasing contact between East and West. This historic background, however, must always be kept in sight by the framers of constitutions for India, if they would avoid the risk of drawing false conclusions from the constitutional history of more recently established communities, such as Canada and Australia. All that we have attempted of historical retrospect has been to depict the main constitutional features in British India prior to the Reforms. The story of the last ten years forms the foreground. It has been our duty to examine the constitutional arrangements devised ten years ago, to see how far

they have proved successful, how far the difficulties encountered have been due to the system itself and how far to those by whom it has had to be worked.

The introduction into an oriental country, with a long history of autocracy, of methods of self-government evolved during centuries of experiment by a Western nation for its own conditions and its own people was a momentous and even hazardous enterprise which should be studied with sympathy and understanding. We have given our estimate of the degree of success achieved by men new to the forms and practice of representative government in working a complicated and professedly temporary system under the trying conditions of the post-war period. We have described the system of administration that has been built up in India under British rule on the foundations of the Mogul regime, and have indicated the difficulties encountered in grafting new constitutional methods thereon. We have weighed the effects, good and bad, of the Reforms on the day-to-day work of government.

5. Thirdly, we have enquired into the progress of education in India, particularly from the point of view of its bearing on the solution of constitutional problems, for while literacy is not an entirely necessary factor in political capacity, yet the degree of success in working democratic institutions in the modern state, and the pace at which an advance towards complete self-government can be made, must necessarily be conditioned by the capacity of the mass of the people to understand the problems of a Great Society and to take its part in dealing with them. The larger the unit of government, the more must the written inevitably take the place of the spoken word as the vehicle for the diffusion of ideas.

6. Finally, we have tried to describe the attitude and opinions of the Indian people, not merely of the educated and politically conscious minority, nor of the leaders of particular sections only, but of the masses, and to form an estimate of the influences operating in their midst. For just as it would be useless to elaborate a theoretically perfect constitution without reference to the other conditions of the problem, so it must be recognised that representative institutions depend for the success of their working not so much on their logical excellence as on their ability to attract and make use of the forces of public opinion.

In the light of these facts, and upon our judgment of the working of the constitution in India and the state of opinion among Indians, we have come to certain general conclusions on matters of principle, which we will state and explain before setting out our detailed recommendations.

CHAPTER 2.—THE MECHANISM OF ADVANCE.

7. The first principle which we would lay down is that the new constitution should, as far as possible, contain within itself provision for its own development. It should not lay down too rigid and uniform a plan, but should allow for natural growth and diversity. Constitutional progress should be the outcome of practical experience. Where further legislation is required, it should result from the needs of the time, not from the arbitrary demands of a fixed time-table. The constitution, while contemplating and conforming to an ultimate objective, should not attempt to lay down the length or the number of the stages of the journey.

We were appointed under a provision of the Government of India Act, whereby at the end of ten years a Commission was to enquire and report, in effect, upon the working of the reformed constitution and on what changes were desirable. This method of periodic enquiry and enactment is quite foreign to the spirit of constitutional development, as understood and applied elsewhere in the Empire. It has been a characteristic of the evolution of responsible government in other parts of the British Empire that the details of the constitution have not been exhaustively defined in statutory language. On the contrary, the constitutions of the self-governing parts of the British Empire have developed as the result of natural growth, and progress has depended not so much on changes made at intervals in the language of an Act of Parliament, as on the development of conventions, and on the terms of instructions issued from time to time to the Crown's representative. The Preamble to the Government of India Act declares that progress in giving effect to the policy of the progressive realisation of responsible government in British India can only be achieved by successive stages; but there is no reason why the length of these successive stages should be defined in advance, or why every stage should be marked by a commission of enquiry. We are profoundly convinced that this method of enquiry at stated intervals has had a most injurious effect on the working of the reformed constitution, and on Indian political life. Whatever may have been the merits or defects of the constitution proposed as the result of the Montagu-Chelmsford Report, the time limit of ten years gave it the character of a makeshift affair, and the working of a constitution under a time limit inevitably breeds certain evils.

Evils of a Temporary Constitution.

8. Those who have to work a temporary constitution tend inevitably to fix their minds upon the future instead of on the present. Instead of making the most of the existing constitution and learning to deal with practical problems under existing conditions, they constantly endeavour to anticipate the future and to push forward the day for the next instalment of reforms. There is little incentive to try to make the system a success; on

the contrary, those who are not satisfied with the advance already made are eager to prove that the temporary constitution is unworkable.

Thus in India, as early as September 1921, within a year of the introduction of the Reforms, a comprehensive resolution was moved in the Legislative Assembly, demanding complete responsibility in the provincial councils, a transfer to responsible Ministers of all central subjects, except the Army, Navy, and Foreign and Political Departments, and the conferment of dominion self-government from the beginning of the fourth term of the Assembly.* From that time forward, no year passed without similar motions being introduced, or similar proposals being ventilated in debate on other matters. These motions were symptomatic of the attitude of mind caused by the knowledge that the existing constitution was only temporary. Even politicians who did not take up an attitude of non-cooperation, but were engaged in working the reformed constitution, were, nevertheless, affected in the same way. The minds of all were fixed on the future. Every community and every interest was thinking of what its position would be under the next constitution. The result was to intensify communal rivalries. Every community tried to consolidate its position. Groups tended to coalesce on communal lines. Communal advantages were sought in the regulation and recruiting of the services. Every piece of ground secured as a temporary or transitional position was fortified as an outpost to be held in the future struggle for power. Uncertainty as to the future unsettled the minds of all. Actions were calculated with a view to their effect on those who would have to deal with the next advance. It was feared by some that co-operation in working the temporary constitution would be interpreted as satisfaction with the amount of advance already attained.

In such circumstances, the growth of political parties on a basis related to the actual problems of India and to different attitudes of mind towards the solution of practical difficulties could not take place. Parties were aligned in accordance with their views as to the best tactics for securing the next advance.

9. The provision of a time limit within which the Montagu-Chelmsford constitution was to work has also had a prejudicial effect upon the use which has sometimes been made of the powers which that constitution conferred. It was in any case a difficult and delicate operation to transplant to India forms of government which are native to British soil, and what was needed was that the new institutions should have time to take root and to grow naturally. The British parliamentary system has developed in accordance with the day-to-day needs of the people, and has been fitted like a well-worn garment to the figure of the wearer, but it does not follow that it will suit everybody. Custom and convenience have retained in it various provisions

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* See Vol. I, Part III, Ch. 6, para. 275.

which, formed for one purpose, are in practice used for another. Many of its detailed contrivances work only because there is the will to make them do so, or because there is a general understanding that they will be used in moderation.

British parliamentarism in India is a translation, and in even the best translations the essential meaning is apt to be lost. We have ourselves in attending debates in the Assembly and provincial councils been more impressed with their difference from than their resemblance to the Parliament we know.

While the principles and practice of the British parliamentary system are accepted by educated Indians as the best example of democracy in action, they are being applied in a country where the conditions and the mental habit of the people are very different.

All this would in any case have made the beginning of the new constitution a time of anxiety, but the further announcement that the system was liable to be overhauled ten years later greatly added to the difficulty of working it fairly in the meantime. Those who aimed at securing an early advance were led to use imported forms of procedure rather as a means of showing the inadequacy of what was already conceded than as a method for getting the best out of the existing arrangements. A good example is the way in which the vote for Ministers' salaries, which is used in England to provide an opportunity for raising debates on specific subjects, has been perverted into a weapon for wrecking ministries. In short, the Reforms of 1919 did not make provision for a steady evolution towards an ultimate objective, and to this extent they appear to us to fail to reproduce a feature which is essentially characteristic of the model on which they were partly based. As far as possible, therefore, the object now to be aimed at is a reformed constitution which will not necessarily require revision at stipulated intervals, but which provides opportunities for natural development.

The Ten Year Period.

10. In any case the time is too short for any real judgment to be formed. During the early periods of a new system, the momentum derived from the old still operates. In India, the prestige and experience of those who had worked the former system were still available. It is, therefore, difficult to decide how far success or failure is due to the new or the old elements in the Government. Ten years is not long enough to see the real effect on administration of the new system: still less is it possible to forecast from the first decade what will happen in the next. The course followed between two points so close to each other does not provide sufficient data to plot with confidence the curve of future progress.

The Need for Elasticity.

11. Finally, one essential and inevitable defect of a limited and temporary scheme was that it should be almost completely rigid. The Act of 1919 necessarily had to contain a number of detailed provisions which could only be altered by an amending statute. These provisions, save for some slight possibility of alteration by regulation or convention, had to be applied in all provinces alike. In the course of the experiment some of them worked well, some ill; some worked well in some provinces, but were found unsuitable in others; but there was no power of alteration where and when necessary. The general effect has been to cramp and confine development and to restrict the range of experiment. We consider that this inelasticity has been a great disadvantage in so large a country as India, where province differs so much from province. It is undesirable and politically almost impossible to range the provinces in order of progress, and to give by statute greater advances to those at the head of the list, for every province believes itself to be entitled to the advances secured by another. We believe that what is required is a constitution which, without doing this, will contain some element of elasticity enabling adjustments to be made in accordance with the conditions actually obtaining in any given province at any particular time.

12. While we think it is possible in the provincial sphere to make very full provision in the constitution for growth and development without the necessity of seeking new powers from the British Parliament, and while we desire to give scope for this same principle of growth at the Centre, there are circumstances in the latter case which limit the extent to which this can be done now. The ultimate form of the Central Government depends, as we shall indicate later, on a number of factors which cannot be fully known at the present time. While it is possible to frame a constitution now, the provisions of which will be in harmony with a future development, we do not think that within the compass of a single statute provision can be made for a continuous evolution of the main government of India by the method of internal adjustment and growth.

CHAPTER 3.—AN ALL-INDIA SOLUTION.

13. A consideration of what should be the ultimate goal of British policy in India in pursuance of the declaration of August 20th, 1917 φ leads us to lay down a second principle. It is that any constitutional changes now recommended for British India must have regard to a future development when India as a whole, not merely British India, will take her place among the constituent States of the Commonwealth of Nations united under the Crown. This is in accord with the conception of India's future adumbrated in the concluding chapter of the Montagu-Chelmsford Report. The Joint Authors there stated: "Our conception of the eventual future of India is a sisterhood of States, self-governing in all matters of purely local or provincial interest . . . Over this congeries of States would preside a central Government, increasingly representative of and responsible to the people of all of them; dealing with matters, both internal and external, of common interest to the whole of India; acting as arbiter in inter-state relations, and representing the interests of all India on equal terms with the self-governing units of the British Empire. In this picture there is a place also for the Native States."*

In the course of our enquiries we became more and more convinced of the impossibility of continuing to look at one half of India to the exclusion of the other, and we took occasion to inform the Prime Minister of our intention, with which he agreed, of dealing in our Report† with the relationship of British India and the States.

It is a common practice in India to speak of questions in which all the British provinces are interested as "All-India" questions. But All-India is more than British India. We believe that, unless this ultimate goal is borne in mind in framing India's constitution, there is a danger of the mind of political India being led astray by false analogies, and that there are practical as well as theoretical reasons for so planning the structure of Indian Government that the transition to a truly All-Indian polity can be made as soon as the time is ripe.

India in the League of Nations.

14. It is a striking fact not always sufficiently borne in mind that it is India, not British India, which is a member of the League of Nations—a fact which is emphasized by the invariable presence of an Indian Ruling Prince as a member of the Indian Delegation. This resulted from the fact that in the Great War the effort of India was not confined to British India. Ruling Princes and their subjects fought side by side with men from Great Britain and other parts of the Empire, and it was right that India as a whole should take part in making peace and in the prevention of future wars. If India then is one of the

φ Vol. I, p. 2. * M.C. Report, para. 349. † Vol. I, p. xxii.

nations in the world organisation, it must surely be India as a whole which will be involved in the ultimate constitutional scheme.

Geographical Unity.

15. A glance at the map of India will show how closely the States and British India are interwoven. There are, it is true, large and continuous areas governed by Indian rulers, such as the Nizam's dominions or the States of Rajputana, but besides these great masses that stand out so clearly on the map are areas where States and provinces form a most intricate chequer-work. A good instance is in the central division of the Bombay Presidency. It is frequently an accident of history whether a particular district has been brought directly under British rule or left in the hands of an Indian ruler. There is little or nothing to tell the traveller as he passes by train from one to the other that he has crossed the boundary. Whatever may be the differences of climate and physical feature, and whatever may be the diversities of race and religion in India, it is not these differences that are reflected in the purely arbitrary division between British and State territory. There is an essential unity in diversity in the Indian peninsula regarded as a whole.

Political Unity.

16. It is one of the great claims of British rule in India that it has brought a peace and unity hardly ever before known in the peninsula and has substituted for a congeries of warring States a single India united by a common allegiance to the Crown, although one part only is directly under British rule. The Viceroy, retaining the portfolio of the Foreign and Political Department in his own hands, represents to the Indian States the suzerainty of the King-Emperor, while at the same time he is, in relation to British India, the head of the Government. But as soon as a change is made in the constitution of the Central Government, and power to however small a degree is shared in one sphere of authority with representatives of the people so that two wills are brought into play, difficulties begin to arise and must increase with every extension of popular government in British India. The interests of the two parts of India begin to clash. Policies entered upon in one sphere have their repercussions in the other. Popular movements on one side of these imaginary lines that form political boundaries cannot be prevented from spreading to the other. The time will come when there must be an approach to a closer relationship, and when new machinery must be devised whereby these divergent interests may be reconciled, if a *modus vivendi* is to be reached and the formation of an ever-widening breach prevented. The first essential for internal peace and prosperity for both parts of India is harmony between them.

Economic Unity.

17. Economic forces are such that the States and British India must stand or fall together. The steady growth of transport facilities has inevitably brought the States into closer contact with British India and with each other, while the forces at work in the modern world are such as to affect even the remotest and most primitive State. "Railways, steamships, and the immediate transmission of news, have for many years past joined India to the general economic system of the world and made her one of the constituents of the world market."* The increasing importance of industry brings problems that must be faced by both together. In such vital matters as communications (rail, road or postal), customs, monetary policy and labour regulation, co-operation is becoming essential. The fact that the majority of States are land-locked places them in a position of reliance on British India for their communication with the rest of India and the outside world, while the existence of ports in some other States has already caused complications. While the Central Government was autocratic, the possibilities of divergent interests might be more easily avoided, but with the advent of a measure of popular control at the Centre one-fifth of the people of India is potentially in economic subordination to the remainder. The point is well illustrated by the effect on the States of the adoption, at the wish of the Assembly, of an extended protective tariff. This body, legislating professedly only for British India, has in effect imposed indirect taxation on the inhabitants of the States. The States themselves have their own tariff policies, and there is a serious possibility that, unless provision can be made for the reconciliation of divergent interests, numbers of tariff walls will be perpetuated in an area where fiscal unity is most desirable.

Common Needs.

18. A still more fundamental point remains. On close examination it will be found that there are few subjects which should form the field of activity of a Central Government in India which do not, in fact, interest also the Indian States. An outstanding example is that of Defence. In the past, the invaders of India have not stopped short at political boundaries—once through the barrier of the North-West, they have penetrated far into the peninsula. The subject of Communications, whether by rail or air or trunk road or post or telegraph or wireless, is another illustration. Important social matters such as the prevention of the spread of epidemics, whether among human beings, animals or crops, all require the co-operation of States as well as provinces, while the pursuit on either side of the line of policies in regard to such subjects as liquor excise cannot be effective without mutual co-operation. While it is possible that

* "India in 1927-28," page 276.

some of these matters might be dealt with by negotiation and *ad hoc* agreements, ultimately permanent machinery must be set up.

Nationalism.

19. The unity imposed upon India by the external forces of Great Britain is to-day reinforced by an increasing sense of Indian nationality. It has only been the existence of British rule in India that has rendered such a development possible. The movement has been growing steadily for the last fifty years and with a greatly accelerated pace in the last decade. Beginning in an almost academic assembly of a few intellectuals, it has spread throughout the educated classes and is beginning to make itself felt among the masses. Whatever may be its shortcomings and however distasteful some of its manifestations, it appears to be the one force in Indian society to-day that may perhaps contain within itself the power to overcome the deep and dangerous cleavages that threaten its peace. Sectional interests—racial, religious, caste or provincial—still tend to absorb the energies and devotions of the majority of Indians, and there are too few signs yet of a willingness to surrender such claims to the common good. But without such a surrender there is little hope for the growth of a true sense of citizenship. Nationalism is a force with immense power for good or evil, and the task in the future is to utilise that force for constructive ends. For nationalist movements that fail to find an appropriate outlet for their energies tend to mere strife and futility.

Indian nationalism is a phenomenon which cannot be disregarded by the rulers either of British India or of the Indian States. We shall in the next chapter point out that it is only under a federal system that the sentiment underlying the movement can be given effective expression.

The Internal Autonomy of the States.

20. But while we hold that the ultimate development of the Indian polity must lie in the direction of a solution embracing all India, it is absolutely clear that the States cannot be compelled to come into any closer relationship with British India than exists at the present time. Indian Rulers are naturally proud of their historic position and their rights have been repeatedly acknowledged. At the same time, we believe that they recognise more and more the need for adjusting their future relationship to the rest of India. We believe that they will only be ready to come into the larger whole when they can see that their rights and position will be safeguarded. The greater unity will come about when it is felt that it is to the mutual advantage of both sides to pursue it. We desire that the new constitution should provide an open door whereby, when it seems good to them, the Ruling Princes may enter on just and reasonable terms.

CHAPTER 4.—THE IDEAL OF FEDERATION FOR ALL-INDIA.

21. If the principle laid down in the previous chapter is valid, it inevitably follows that the ultimate constitution of India must be federal, for it is only in a federal constitution that units differing so widely in constitution as the provinces and the States can be brought together while retaining internal autonomy. This is recognised in the Montagu-Chelmsford Report: "Granted the announcement of August 20th, we cannot at the present time envisage its complete fulfilment in any form other than that of a congeries of self-governing Indian provinces associated for certain purposes under a responsible government of India; with possibly what are now the Native States of India finally embodied in the same whole, in some relation which we will not now attempt to define."* This statement is as true to-day as when it was written, but opinion has, we believe, advanced considerably along these lines during the intervening period. That some of the leading Indian Princes envisage some such polity in the future is shown by the pronouncement made on 19th December, 1929, by H.H. the Maharaja of Bikaner to the Legislative Assembly of his State. "I look forward to the day when a United India will be enjoying Dominion Status under the aegis of the King-Emperor and the Princes and States will be in the fullest enjoyment of what is their due—as a solid federal body in a position of absolute equality with the federal provinces of British India." However distant that day may be, we desire in our proposals to do nothing to hinder but everything to help its arrival, for already there are emerging problems that can only be settled satisfactorily by co-operation between British India and the States.

22. It might be possible to visualise the future of federation in India as the bringing into relationship of two separate federations, one composed of the elements which make up British India, the other of the Indian States. We do not wish in any way to be dogmatic on a matter which must be decided by those concerned. While we have given much attention to the subject, we have not received evidence from the Rulers of the Indian States. We recognise that it is one of the matters which may be discussed when the proposed conference takes place. We are inclined ourselves to think that the easier and more speedy approach to the desired end can be obtained by reorganising the constitution of India on a federal basis in such a way that individual States or groups of States may have the opportunity of entering as soon as they wish to do so. It appears to us that the alternative method would reduce progress to the pace of the slowest. Furthermore, we do not believe that in matters of federal concern the States will be always ranged on one side

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* M/C. Report, para. 120.

and British India on the other. On the contrary there are matters in which the interests of particular States and provinces more clearly coincide.

Whatever may be the ultimate decision, it seems to us that the reorganisation of British India on a federal basis will prepare the way for it.

Federation in British India.

23. Apart altogether from any question of an ultimate federal union between the Indian States and British India, there are, we think, very strong reasons for the reconstruction of the Indian constitution on a federal basis. We recognise that a change from a unitary to a federal system is unusual. Federation has often been an intermediate process whereby independent States have agreed to relinquish part of their sovereignty before they were ready to merge their separate identities in a unitary State. The general tendency in federations once formed has been towards increasing centralisation. It may well be asked why the reverse process is recommended to-day. The answer is to be found in the peculiar features of the Indian problem. India is gradually moving from autocracy to democracy. As soon as an instalment of self-government was introduced, it was found necessary to accompany it with a measure of devolution, because the practical difficulties of applying the principles of western democracy to so large a unit as British India were insuperable. There is a very definite correspondence between dimensions of area and population and the kind of constitution that can be operated successfully. There have been autocratically governed States comparable in size and population to India, but a democracy of nearly 250 million people is unprecedented. The largest and most populous State democratically governed, the United States of America, has less than half that population, and despite its high level of education, its possession of a common language and culture and the long political experience of its people, it consists of 48 States united in a federation. To imagine that a constitutional structure suitable for 45 millions of British people, mainly urban, will serve equally well for 250 millions of Indians spread over a sub-continent and living in half a million villages is unreasonable. If self-government is to be a reality, it must be applied to political units of a suitable size, after taking into account all relevant considerations. Representative democracy as it is understood in Britain depends for its success on the possibility of a close contact between elector and elected person. Unless this is secured, it is not real representation at all.

24. A further reason is that it is only in a federal structure that sufficient elasticity can be obtained for the union of elements of diverse internal constitution and of communities at very different stages of development and culture. The need for this appears not only when contemplating the prospect, perhaps distant, of the ultimate federation of the States with British India,

but when the immediate facts of the situation inside British India are examined.

There are areas in India which by reason either of their geographical situation or of their ethnological composition have not been brought under the Reforms. We would invite special attention in this connection to the descriptions we have given in our first volume of the North-West Frontier Province and Baluchistan* as examples of the first type; the second needs to be studied in detail, province by province, and for this reason we have collected the material under the heading " Backward Tracts " in a series of paragraphs† in our chapter on the Provinces of British India. It would be a very superficial view of the Indian constitutional problem to imagine that areas like these fall readily into place within the prescription of some simple formula of universal application. The political institutions suitable to other parts of British India could not be effectively worked in them; yet they must have their place in the general structure. It is not reasonable or, indeed, possible to apply the same hard and fast constitution to every part of India, and to attempt to do so would necessarily retard political progress.

Units of Federation.

25. When we come to consider the constituent elements out of which the federation of British India is to be built, we are met with an initial difficulty. Federation schemes usually start with a number of clearly defined States each already possessed of individuality and consciousness, whereas in India there are only a number of administrative areas which have grown up almost haphazard as the result of conquest; supersession of former rulers or administrative convenience. No one of them has been deliberately formed with a view to its suitability as a self-governing unit within a federated whole. Most of them are too populous and extensive, having regard to the cultural level and economic conditions of their inhabitants, to allow of the easy working of the machinery of representative government on a reasonably extensive franchise. It is true that during the last few years there has been a distinct growth of provincial consciousness which finds vent in a demand for provincial autonomy, but this, though not to be ignored, is to some extent due to other causes. In the first place, the Central Government is distant; despite all modern developments of inter-communication " Delhi is far off." Secondly, the greater advances conceded to the provincial councils as compared with the Central Legislature have strengthened the demand to be allowed full scope in the provincial sphere. And, thirdly, there is the wish of certain minority communities to take full advantage of their local majorities, where these exist.

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* Vol. I, Part IV, Ch. 5.

† Vol. I, Part I, Ch. 8, paras. 75, 80, 86, 88, 94 and 99.

In spite of these developments, we cannot regard the present provinces as in any way ideal areas for self-government. Although we are well aware of the difficulties encountered in all attempts to alter boundaries and of the administrative and financial complications that arise, we are making a definite recommendation for reviewing, and if possible resettling, the provincial boundaries of India at as early a date as possible. Meanwhile, the provinces of India exist and form the basis on which a federal structure must be built. Besides the Governors' provinces there are the areas to which the Reforms have not yet been applied. These will find their place in the federation.

Separation of Burma.

26. There is, however, one province, to-day an integral part of British India, which should, we think, be definitely excluded from the new polity, and that is Burma. As the Montagu-Chelmsford Report pointed out, "Burma is not India." Its inclusion in India is an historical accident. We think that, when an endeavour is being made to lay down the broad lines of advance towards an ultimate goal, the opportunity should be taken to break a union which does not rest on common interests. We develop our reasons for this in Part VI, where we also make some remarks upon the future constitution of Burma.

The Completion of Devolution.

27. The authors of the Montagu-Chelmsford Report stated that the process on which they were engaged was not that of federalising India, but the antecedent one of breaking up the old structure before building the new. They were giving independent life to the organisms which would in future form the members of the new body. We desire to complete this preliminary process and at the same time to lay down the broad lines of the future federation. The scheme which we recommend in more detail in Part II completes the process of devolution. It aims at giving the maximum of provincial autonomy consistent with the common interest of India as a whole. This means the abolition of dyarchy, for it was of the essence of this system that, while certain departments were transferred to the control of Ministers, the reserved side of the administration was still carried on under the superintendence, direction and control of the Central Government. Devolution was, therefore, incomplete. It is our intention that in future each province should be as far as possible mistress in her own house. Thus independent life will be given to the provinces which will form the nucleus of the new federal structure.

Provincial Self-Government.

28. The ideal of "provincial autonomy" was often brought to our notice by witnesses who appeared before us, but they

generally used the term not only as descriptive of a relationship between the Centre and the provinces, but also as implying self-government in the provincial sphere. Our proposals for the future constitution of the provinces recognise this demand. We propose that in future the progress of these great areas should be entrusted to a unitary government responsible to legislatures elected on an extended franchise. Within the general plan there will be scope for variation according to provincial needs and circumstances. Each of the provinces—or of the redistributed areas substituted for them—will be able to evolve by a process of growth and development, the form of executive and legislative machinery most suited to it. The essence of the plan is to afford to Indians the opportunity of judging by experiment in the provincial sphere how far the British system of parliamentary government is fitted to their needs and to the natural genius of the people. It must be realised that the change involved is very great and far reaching. Henceforward, in the provincial sphere, all branches of the administration may pass into the hands of Indian ministers. We should not have felt justified in recommending such an advance without at the same time providing for broadening the basis of representation. Unless there were a considerable measure of enfranchisement, it is clear to us that there would be a danger that important elements in the population might fail to secure the voice in the affairs of the province to which they are entitled.

The Nature of the Central Authority.

29. We have in the provincial sphere endeavoured to give a full opportunity for an experiment in the application of the British parliamentary system. It has been necessary to combine it with restrictions and qualifications under which the full force of majority rule is mitigated by the power of intervention vested in the Governor for such purposes as the protection of minorities and the preservation of order. In so intervening, the Governor will be acting under the superintendence of the Governor-General, for it is on the strength of the central administration that the peace and safety of India ultimately depend. We do not think, however, that the British parliamentary system, with an Executive representing a single party and depending from day to day on the vote of a majority of directly elected representatives, is likely to be the model according to which responsible government at the Centre for India will be evolved. Parliamentary government of this type is not the only form which responsibility may assume. It takes different forms in different places and circumstances, and the British system cannot be transplanted at will and adopted ready made. It is not unnatural that most of the constitutional schemes discussed for India closely follow what may be called the British model, for they are put forward either by those who inherit the British tradition or by those who derive their political theories from British

sources. But it has to be remembered that the constitutional scheme familiar to us—under which the chiefs of the party with a parliamentary majority form an Administration which is liable to be overthrown by parliamentary vote—is not a universal arrangement. In England, it results in stable government largely because of the extent to which the Cabinet controls the House of Commons, instead of the House of Commons controlling the Cabinet. But it does not result in stable government everywhere, and it seems to be a very large assumption indeed to suppose that it is along this road that India as a whole will advance towards the goal set before her. We think that Indians have been apt to be led astray by keeping the British Parliament too closely in view and have imagined that the Assembly in Delhi might develop into an All-India Parliament functioning after the model of Westminster. We consider that the precedent for the Central Government in India must be sought for elsewhere.

Reconstitution of the Central Legislature.

30. What is needed is a central organ which can at once take up the work of British India so far as this does not devolve on the provinces, but which at the same time is capable of expansion into a body representative of All-India in the wider sense. If the ideal to be aimed at is a federation to which the Indian States will one day adhere, the process of evolution in British India towards provincial autonomy in matters of internal government must be thoroughly carried out. The union of constituents such as the Indian States with the provinces of India, the former autocratic and the latter democratic, necessarily involves giving the greatest possible internal freedom to the federal units. It is, we think, abundantly clear that it is only on such terms that there could be hope of achieving the unity of Greater India. The Central Government becomes on such a theory an association of units formed mainly for the purpose of performing certain functions on behalf of all. But while we conceive of the central body of the federation more as an instrument for doing certain work in the common interests of all its members than as an over-riding power, provincial automony does not mean that the Central Government would not be entitled to call for assistance and co-operation in matters vital to the whole. In a later Part of this volume, when we develop in more detail our ideas on the powers and functions of the Central Government, we must return to this point, for it is of great importance, but for the moment our object is to insist that those who desire to secure the end of federation must be willing to contemplate the means by which it may be brought about. And the only means which are practicable involve a substantial change in the present constitution of the Central Legislature. It appears to us that this body must be composed henceforward on a strictly federal basis, that is to say, it should be the units of ultimate federation rather than popular constituencies that should

be represented in it. Direct election to the Central Legislature, as we have pointed out in detail and with many examples in our earlier volume, involves constituencies of such size as make it impossible to secure reality of representation. Our examination of the problems of public finance in India, and the Report made to us by our Financial Assessor, lead us to propose a scheme which will enable the provinces to secure much needed additional revenue, by methods which require that the provinces should feel themselves to be represented at the Centre. Various arguments, therefore, converge in support of the view that reconstruction at the Centre should not closely follow the lines already pursued. All that it is necessary to emphasise here is that the new constitution which we propose for the Central Government is something differing from Parliament, and cannot, therefore, be judged on the assumptions that might be made in considering the needs of a unitary state.

The Road to Federation.

31. Now how much of the ultimate object in view can be expressed in statutory form at the present time? The conception of the evolution of India into a Federation of self-governing units has certain important effects on the degree to which changes in the structure of the Central Government can be made now. We have already indicated the need for a reconsideration of the boundaries of the present provinces, and we have expressed our hopes that at some future time the Indian States may adhere to an All-India Federation. We are therefore faced with the situation that we are trying to federate elements, some of which have not been finally delimited, while others have yet to express their willingness to enter. But even if we were to ignore the Indian States and were to rest content with the provinces as at present constituted, the necessary conditions for bringing a fully federal constitution into being are not yet present. The provinces must first become political entities. Even when our proposals for the constitution of the Governors' provinces have been embodied in a Statute, the process is not completed. The provincial constitution only begins to exist as a living thing when the forces which operate it are at work and provincial opinion gives it inspiration and direction.

32. Every federal union means the coming together of constituent elements which, while preserving their identities, look to the Centre to deal with matters common to all. Thus the nature of the constituents themselves has a great influence on the form which the federation takes. It is a difficult task to combine the process of devolution with that of integration on a new basis.

Experience shows that federation has generally come about some time after the federating units have become politically self-conscious. In Australia and South Africa, for example, unity at a common centre was only brought about a substantial time

after each of the constituent units, or at any rate most of them, had achieved self-government. The same thing is, in substance, true about the Dominion of Canada. The very name of the United States illustrates the same sequence. India, which presents so many complications on other grounds, is also unique in this that a Central Government is being evolved at the same time as the provinces are growing to their full stature. But this does not alter the significance of the lesson to be learnt from these other instances.

Thus an attempt to devise now a detailed and final constitution for the Centre would be to ignore the fact that its ultimate form must depend on the action of its constituent parts. We can but provide the conditions for its future realisation.

CHAPTER 5.—THE NEED FOR SAFEGUARDS.

33. The last principle which we would lay down is the paramount necessity of securing that throughout the period during which India is progressing on the road to complete self-government there must be full provision made for the maintenance and efficiency of the fundamentals of government. However much we may subscribe to the doctrine that good government is no substitute for self-government, we must ensure that we do not put forward proposals that will permit of government being replaced by anarchy.

It must be recognised that there are grave dangers in the situation of India that must be provided for.

Defence.

34. History shows that, whenever there has been wanting in India a Government strong enough to defend itself, invasion through the gateway of the North-West has occurred. We have described elsewhere the problem of the defence of India, the perpetual menace from the unruly tribesmen in the tracts and the possibility of an attack from a foreign enemy. It is an absolute condition for the development of self-government in India that the gateway should be safely held. The Army in India must be strong enough for its task. We hold that for many years the presence of British troops, and British officers serving in Indian regiments, will be essential. It would be idle to deny that this fact gravely complicates the problem of the introduction of an increasing measure of responsibility into the Central Government, but we believe that the proposals which we put forward for consideration with regard to the status of the Army in India would reconcile the demands of security and of advance.

Internal Security.

35. If the external menace to India's peaceful development is serious, the possibilities of internal disturbances are not less grave. It must be borne in mind that the periods during which India has been free from civil strife have been few and of short duration. It has only been when a strong Central Government has been able to keep peace among the divergent elements in the peninsula that progress has been possible. Experience has shown in other countries that a period of transition may easily result not in ordered advance but in a lapse into civil war and anarchy.

The danger of disorder in India is ever present. There are inflammable elements in the population and jealousy and ill feeling between important communities which from time to time cause riots and disturbances. The history of communal disturbances during the past few years shows how slight an incident may cause trouble which, if not checked at an early stage, may easily spread from district to district. Nowhere in the world is

there such frequent need for courageous and prompt action as in India, and nowhere is the penalty for hesitation and weakness greater.

The problem involved in internal security is not, however, a matter only of the preservation of law and order. During British rule the population of the peninsula has enormously increased, but its very existence depends on the efficiency of the administrative machine. There are great communities living on land which owes its fertility entirely to an elaborate system of irrigation. A still larger section of the population is dependent for its existence on a precarious rainfall. If the monsoon fails, millions will die of famine, unless there is an efficient railway system to bring food from the areas where the crops have not failed.

The spread of epidemics, such as plague, is only prevented by constant vigilance on the part of the authorities. The life of millions in India depends literally on the existence of a thoroughly efficient administrative system. While we are prepared to recommend a considerable advance towards self-government and while we believe that a sense of responsibility can only be taught by making men responsible for the effects of their own actions, we desire to secure that experience is not bought too dearly. There must be in India a power which can step in and save the situation before it is too late. There must be provided, as far as may be, safeguards to ensure the maintenance of vital services. We believe that the right way to make certain that the basic conditions of security are maintained is not by providing a number of minute regulations which are generally more irritating than effective, nor by devices which allow elected representatives to vote against unpopular but necessary measures, sure in the knowledge that there is someone else who will take the responsibility and bear the unpopularity, but by ensuring that when intervention is necessary, it shall accomplish its purpose. The Governor-General or the Governor, as the case may be, must be armed with full and ample powers. We desire to give the fullest scope for self-government, but, if there is a breakdown, then an alternative authority must operate unhampered.

Safeguards for Minorities.

36. We have had abundant evidence of the feeling of apprehension with which possible changes in the system of government are viewed by many communities. India is a land of minorities. The spirit of toleration, which is only slowly making its way in Western Europe, has made little progress in India. Members of minority communities have unfortunately only too much reason to fear that their rights and interests will be disregarded. The failure to realise that the success of a democratic system of government depends on the majority securing the acquiescence of the minority is one of the greatest stumbling blocks in the way of rapid progress towards self-government in India. Many

of those who came before us have urged that the Indian constitution should contain definite guarantees for the rights of individuals in respect of the exercise of their religion and a declaration of the equal rights of all citizens. We are aware that such provisions have been inserted in many constitutions, notably in those of the European States formed after the War. Experience, however, has not shown them to be of any great practical value. Abstract declarations are useless, unless there exists the will and the means to make them effective. Until the spirit of tolerance is more widespread in India and until there is evidence that minorities are prepared to trust to the sense of justice of the majority, we feel that there is indeed need for safeguards. But we consider that the only practical means of protecting the weaker or less numerous elements in the population is by the retention of an impartial power, residing in the Governor-General and the Governors of provinces, to be exercised for this purpose.

We shall now proceed to work out in detail the application of the principles which we have laid down in this chapter. Our governing purpose is, as we declared in the Introduction to our first volume, to apply to the reform of the Indian constitution the principles of the declaration of 20th August, 1917, and to make provision for the steady growth of the element of responsibility in the government of India. The authors of the Joint Report written 12 years ago found that the possibility of rapid advance was greater in the provincial sphere than at the Centre, and this remains true. The reasons which constrained the authors of the Report were not so much doubts as to the path to be followed or apprehensions of the dangers of the experiment, as a recognition of the facts inherent in the Indian situation. Twelve years is a very short time in the course of political evolution, especially when dealing with civilisations so ancient and conditions so diverse as India presents. But if the Indian constitution is now re-established on right lines, and if it is realised that India is evolving into a federation of self-governing units, further approach to the ultimate goal may be achieved in due time without the necessity of constant and disturbing revision.

PART II.—THE GOVERNORS' PROVINCES.

CHAPTER I.—THE PROVINCIAL EXECUTIVE.

37. In the second Part of our first volume, Chapters 3 to 6, we have sketched the present constitution of the nine Governors' provinces. In eight of these, this constitution started to operate from 1921; in the remaining case of Burma, it came into effect in January 1923. In Parts III and IV of the first volume we have described how these provincial constitutions have worked in practice, and have given some indication of the difficulties that have been encountered and of the tendencies that have been developed during the short period that has elapsed since the present provincial system was set up. We now enter upon the more difficult task of formulating our views as to the need for changes in the system, and our suggestions as to the direction which those changes should take.

Need for Provincial Redistribution.

38. But first we must make an observation on the size and shape of the provinces themselves. There is a considerable body of opinion in India which calls for some readjustment of boundaries and redistribution of areas, and we entirely share the views of those who think that the present arrangement is not altogether satisfactory. The existing provincial boundaries in more than one case embrace areas and peoples of no natural affinity, and sometimes separate those who might under a different scheme be more naturally united. There are, however, very great difficulties in the way of redistribution, and the history of the partition of Bengal stands as a warning of the caution needed before undertaking any operation so likely to run counter to old associations or to inflame suspicion and resentment. Moreover, the consequential administrative and financial adjustments are bound to be of an extremely complex character. The Nehru Report contains an interesting chapter on redistribution of provinces and discusses the difficult subject of " linguistic areas " with a good deal of detail, though without coming to final conclusions.* If those who speak the same language form a compact and self-contained area, so situated and endowed as to be able to support its existence as a separate province, there is no doubt

* Nehru Report, pp. 61–69. Para. 86 of the Recommendations does not carry the matter any further.

that the use of a common speech is a strong and natural basis for provincial individuality. But it is not the only test—race, religion, economic interest, geographical contiguity, a due balance between country and town and between coast line and interior, may all be relevant factors. Most important of all perhaps, for practical purposes, is the largest possible measure of general agreement on the changes proposed, both on the side of the area that is gaining, and on the side of the area that is losing, territory. It is manifestly impossible for us to recommend a re-drawing of the map of India according to some new pattern. An urgent case for consideration and treatment is that of the Oriya-speaking peoples, most, but not all, of whom are now included in Orissa, because we consider that so close a union as now exists between Orissa and Bihar is a glaring example of the artificial connection of areas which are not naturally related. We were so much impressed with this instance that we arranged, in co-operation with the Indian Central Committee and the Bihar and Orissa Provincial Committee, for the appointment of a Sub-Committee to investigate it more in detail. A summary of the Sub-Committee's report is printed at the end of this chapter.*

Similarly, we have given special attention to the case of Sind, for the Sindhis are both racially and geographically completely separated from the rest of the Bombay Presidency, and the separatists of that area have pressed upon us the claim of Sind to become a self-contained province. We have great sympathy with the claim, but there are grave administrative objections to isolating Sind and depriving it of the powerful backing of Bombay before the future of the Sukkur Barrage is assured and the major readjustments which it will entail have been effected. Even if it were held that the time is ripe for the separation of Sind to be seriously considered, there would have to be a close and detailed enquiry into the financial consequences which would follow from such a step before a decision could be taken. As we have indicated in our brief account of Sind in Volume I,† the special and separated position of the province is well recognised in the administrative arrangements that have been made. It may be that on the legislative side also special arrangements could profitably be made for the consideration of matters affecting Sind, as by the constitution of a Committee, similar to the Berar Legislative Committee,‡ on which all the Sind members of the Bombay Legislature would sit. Legislation which such a Committee resolved to be necessary would, of course, have to be undertaken in the Bombay Legislature, but the Committee might perform very useful functions in relation to the local administration, as well as help to form local opinion and make it articulate.

* Appendix VI, below, p. 50.

† Vol. I, para. 77.

‡ See Vol. I, para. 90, and the Memorandum of the Central Provinces Government in Vol. XIII, p. 74.

The cases of Orissa and of Sind, however, are only prominent examples of a class of question which arises at many points when provincial boundaries are considered. These boundaries, as a rule, have none of the characteristics of a natural frontier; the lines they follow are largely due to the way in which British authority happened to spread over the sub-continent and to the order of time in which different accretions became joined to what was already organised as an administrative unit. As long as the Government of India was entirely centralized, and both the administration and the finance of any area were provided and directed from the Centre, the line taken by a provincial boundary was of less importance. But now that the provinces have a real political existence of their own, the situation is changing, and if, as we hope, the time is coming when each province will not only have its own provincial Government and its own provincial resources, but will form a unit in a federated whole, it is extremely important that the adjustment of provincial boundaries and the creation of proper provincial areas should take place before the new process has gone too far. Once the mould has set, any mal-distribution will be still more difficult to correct. We, therefore, propose, and we regard it as a matter of urgent importance, that the Government of India should set up a Boundaries Commission with a neutral Chairman, which would investigate the main cases in which provincial readjustment seems called for, and should endeavour to work out schemes with a view to seeing how far agreement is possible. The shifting of landmarks is proverbially an operation which may bring down anything but blessings on the head of the reformer; it can be prudently undertaken only after taking full account of the interests and even the prejudices concerned. In the meantime, we can only proceed on the basis that the boundaries of the provinces are what they at present are, and on this basis we turn to the question of provincial constitutional reform.

Demand for Constitutional Changes in Provincial Government.

39. Why, it may be asked, should any alterations be made in the existing mode of provincial government at all? Is not the extremely brief period that has elapsed since the Reforms were put into operation too short to justify yet another change? The authors of the Joint Report recommended, and a section of the Government of India Act provided that, at the expiration of ten years from the passing of the Act, i.e., nine years after the starting of the Reforms, a Statutory Commission should be appointed. In fact, by the amending Act of 1927, the period has been yet further shortened by two years. It cannot be doubted that this provision has stimulated hopes of early revision. We are struck by the fact that practically every witness and every document dealing with the question recommends a change. Indian political thought, which is much given to resting upon

general conceptions and is not always very definite on the essentials of constructive method, tends to regard the present constitution of the provinces as a temporary expedient which should now give place to "provincial autonomy"—a phrase which is constantly used not to indicate the throwing off of all central control so much as the ending of dyarchy and the creation of a ministry responsible to the provincial legislature in respect of all provincial subjects. The Muddiman Committee, appointed in 1924 to consider what adjustments were desirable inside the framework of the Act of 1919, presented a majority and a minority report.* The majority consisted of Sir Alexander Muddiman, Sir Muhammed Shafi, the Maharaja of Burdwan, Sir Arthur Froom and Sir Henry Moncrieff Smith. Reviewing the evidence, it declared that, while it was too soon to pronounce that dyarchy had succeeded, it was also premature to say that it had failed,† and recommended a few minor changes, including some small additions to the list of transferred subjects. The minority was composed of Sir Tej Bahadur Sapru, Sir Sivaswamy Aiyer, Mr. Jinnah, and Dr. Paranjpye. These gentlemen reported in effect that no tinkering would mend a situation which called for more radical treatment. It is unquestionable that since the date of the Muddiman Report Indian opinion in favour of some reconstruction has hardened and spread. We are ourselves very far from saying that the ingenious and elaborate system devised for the Governors' provinces merits all the condemnation which might seem to be implied by these disparagements. Thanks to the guidance of Governors, to the devoted and loyal service rendered to the new regime by officials brought up under the old order, as well as to the zeal of ministers and legislators, much has been accomplished, and a new outlook has been opened up. But weaknesses have shown themselves which we have already described and must again summarise below.

The division of governmental functions has led to a blurring of the boundary lines of responsibility, and it is a sound as well as a natural instinct which leads so many of India's public men to call for a further change.

Suggestions of the Provincial Governments.

40. This view derives support (which is the more impressive having regard to its source) from every one of the eight provincial Governments—Governor, Executive Councillors, and Ministers—which responded to our request for a statement of their views. The area of the ninth, the Government of the Central Provinces, is certainly not the part of British India in which the existing constitution has worked most smoothly. These eight Governments do not agree amongst themselves as to what should be done—indeed each of them, concentrating upon its

* Report of Reforms Enquiry Committee, 1924, Cmd. 2360.
† ibid. p. 37.

own domestic problem, suggests a somewhat different solution—but they all agree that something should be done. In the case of five of these Governments, the view expressed is not unanimous: except in Madras, Burma, and Assam, individuals within the Government advance views differing materially from the majority of their colleagues. These internal differences of opinion are not always between Ministers and Executive Councillors, or between Indian and British Members; in the case of Bengal, the official Members of the provincial Government put forward conflicting opinions. We now proceed to summarise the suggestions as to the future structure of the provincial executive made to us by the different Governments, whether unanimously or by a majority.

The PUNJAB GOVERNMENT'S Memorandum proposes a unitary cabinet dealing with all subjects and responsible to a unicameral legislature, but containing one official member who may hold any portfolio.

The ASSAM GOVERNMENT suggests a unitary non-official cabinet, holding office for a fixed term and protected from motions of censure by the requirement of a two-thirds majority of the unicameral legislature to carry such a motion. The Government would have an official financial adviser who would be outside both the cabinet and the legislature.

The BENGAL GOVERNMENT'S scheme is a unitary composite cabinet (two officials, five non-officials) responsible to a bicameral legislature. Under this scheme, the cabinet would be jointly responsible for the administration of all subjects, but the portfolios of Law and Order, Finance, and European Education would be allotted under statutory rules to the official members. An executive of this form is considered to require the presence of an official bloc in both chambers.

The Memorandum of the GOVERNMENT OF THE UNITED PROVINCES would entrust government in respect of a reduced number of reserved subjects to members of the Governor's Executive Council, and government in respect of the rest to Ministers who would be jointly responsible to the lower house in a bi-cameral legislature. Finance would be entrusted to a finance department outside government and in "a semi-independent position under the Governor."

The GOVERNMENT OF BIHAR AND ORISSA proposes a cabinet of non-official Ministers jointly responsible to a unicameral legislature, with Law and Order discussed in the legislature but administered by an Executive Councillor, or possibly by the Governor who would make the final orders on the subject and would be assisted by the Chief Secretary sitting in the legislature.

The BOMBAY GOVERNMENT'S Memorandum seems to reach no decided conclusion regarding the transfer of Law and Order and the abolition of dyarchy. It appears to favour a non-official

cabinet of five Ministers dealing with all subjects and responsible to an elected legislature, but an irresponsible council appointed by the Governor would exercise the functions of an upper house and its decisions " with regard to the departments of Law and Order and Land Revenue " would " be final and binding on the Legislative Council."

The MADRAS GOVERNMENT boldly and unanimously declares for the abolition of dyarchy and the entrusting of all provincial subjects to a cabinet of Ministers drawn from the elected members of a unicameral legislature, with a Chief Minister at its head.

The Memorandum of the BURMA GOVERNMENT recommends, in the event of Burma remaining a province of India, a cabinet of elected members of a unicameral legislature, jointly responsible to it, but with an official member added whose tenure would be limited to five years.

This is far from exhausting the variations in official advice which we have received. For example, divergent views are expressed or implied regarding the relation of the Governor to the cabinet and to administration generally. From some cabinets he is completely excluded. Over others he will preside. In one he will hold a definite portfolio. Some of the schemes provide that he shall select non-official Ministers on the advice of a Chief Minister.

Views of the Provincial Committees.

41. Next, we think it right to offer a short analysis of the views expressed on this important subject in the Reports drawn up by our colleagues on the eight Provincial Committees which were appointed by their respective legislatures to cooperate with us in our enquiry. Inasmuch as these gentlemen were all members of their respective legislative councils, their views are of special interest as being based upon personal experience of the working of the system they were criticising. We need hardly say that full attention must also be given to the opinions expressed in the Report of the Indian Central Committee and in the various minutes appended to that document by one or other of our colleagues on that body. The following summary may be useful.

The PUNJAB PROVINCIAL COMMITTEE proposes a Ministry (without officials) jointly responsible to a unicameral legislature. The distinction between transferred and reserved subjects will vanish. The Governor is to have reserve powers. A minority suggest that Law and Order should either become a centralised subject or that its administration should be otherwise safeguarded. Without enumerating these safeguards, the view is expressed that the Punjab should be secured in this respect at least as completely as any other part of British India.

The ASSAM PROVINCIAL COMMITTEE recommends a Ministry without officials, jointly responsible for all subjects to a unicameral legislature. The Governor is to retain the power of

overriding decisions of the Ministry. There is, however, to be an Administrative Council of three persons appointed by the Governor to whom all important administrative proposals must be referred by the Ministry for advice before a decision is reached.

The BENGAL PROVINCIAL COMMITTEE recommends a bi-cameral legislature and a jointly responsible Ministry without officials. Differences of opinion are expressed regarding Law and Order, and a compromise recommendation is made that the Minister in charge of this subject should be assisted by a Board consisting of a Hindu, a Moslem and a European appointed by the Governor, the Governor having power to decide if the Board and Minister disagree. Wide and general powers of overruling the Cabinet are to be retained by the Governor.

The UNITED PROVINCES PROVINCIAL COMMITTEE recommends a unitary Ministry without officials, jointly responsible over the whole field to the lower house of a bi-cameral legislature. The minorities are intended to be represented in the Ministry. The Governor is to have considerable reserve powers.

The BIHAR AND ORISSA PROVINCIAL COMMITTEE recommends a unitary Ministry without officials jointly responsible to both houses of a bi-cameral legislature. The Governor should have certain discretionary powers; but no other special provision is recommended by the majority as regards Law and Order. A minority would continue to reserve it.

The BOMBAY PROVINCIAL COMMITTEE recommends the transfer of subjects (except Law and Order) to a Ministry with joint responsibility; a bi-cameral legislature is proposed. The Governor is to have no powers of overruling his Ministry. For five years Law and Order should continue to be a reserved subject with a separate purse. After five years, the two houses of the legislature would decide jointly whether or not this subject should be transferred.

The MADRAS PROVINCIAL COMMITTEE proposes a completely unofficial Ministry jointly responsible for the administration of all subjects to the legislature, which would be bi-cameral. The Governor however is to retain wide powers of overruling his cabinet over the whole field.

The BURMA PROVINCIAL COMMITTEE has not thought it necessary to elaborate proposals in the event of the demand for the separation of Burma from India not being granted. It contents itself with saying that in this event Burma should have as advanced a constitution as any other province of India.

The above brief summaries must be regarded only as an index to the expression of advice which should be studied more at length in the Reports themselves. It will be found that, as in the case of the provincial Governments, so in the case of these Provincial Committees there are many instances of personal reservations and the expression of a minority view.

Recommendations of the Indian Central Committee.

42. The various recommendations of the INDIAN CENTRAL COMMITTEE, of course, also call for close scrutiny. Here again we merely summarise. The Committee, in its main Report (pp. 6-72), advocates a Ministry (without officials) appointed by the Governor in accordance with the advice of a Chief Minister and jointly responsible to the legislature for the administration of all subjects (the only exception being that, in Bengal, Law and Order should be in charge of a Member not directly responsible to the legislature). A vote of no confidence in the Ministry would require a two-thirds majority. The Governor would be outside the cabinet, but would have power to overrule it in matters affecting the peace and order of the province.

Two members of the Committee dissent from the recommendation regarding reservation of Law and Order in Bengal; another would reserve Law and Order temporarily only when it was clear that the province desired this course, and a fourth advocates that in all provinces, except in Madras, the portfolio of Law and Order should be entrusted to an official or non-official, not necessarily an elected member of the legislature, specially appointed by the Governor, but jointly responsible with the rest of the Cabinet. Two other members of the Committee would insist on the inclusion of a Muhammadan in the Ministry.

43. In addition to the above, we have had before us a great variety of suggestions from non-official quarters, both Indian and European, some of them advanced with the support of representative bodies with branches all over India, and others carrying the authority of experienced individual opinion. We will not attempt to recount this advice here. We have studied it with attention and some of the more important unofficial memoranda will be made available in supplementary volumes.

The Principle of Flexibility.

44. Our own views, in the presence of this multitude of counsel and as the result of our own observation and reflection, are as follows.

The working of the existing system in the different provinces has not led everywhere to the same results, and a diversity of advice naturally proceeds from those who are considering the question primarily in respect of their own province. But it is extremely undesirable that the new Statute should make different provisions for different provinces, not only because this will lead to jealousy and heart burning, but because such a mode of treatment makes inevitable a repetition of inquiries at close intervals in order to see whether the situation has again changed and what further modifications are called for. Moreover, it would be a very bold assumption to imagine that anyone, of any race, could settle now in every detail the way in which provincial government should work out in the future. The right method, we are convinced, is to construct a constitutional framework into which all the provinces can fit, but

which will leave enough latitude for adjustment to the needs of the individual case, and which will enable the constitutional progress of provincial government to be secured by the healthy method of growth rather than by artificial statutory jumps. There must be sufficient precision in the statutory outline for the essential constitutional structure to be clearly defined; but this is perfectly possible without finding in the Statute itself a code of rigid regulations covering every detail in which one province may need slightly different arrangements from another, or in which the same province may need adjustments in detail from time to time. Nothing is more striking, when one compares the statutory provisions for the provinces of India with, for example, the statutory provisions for the provinces of Canada, than the extent to which in the former case the Act of Parliament and the rules made under it elaborate a detailed scheme, precise in almost every particular, while the British North America Act of 1867 left so much to be implied and to grow. Analogies are particularly dangerous in the case of India, where so many of the governing considerations are unique. We are far from suggesting that the conditions are parallel; but the contrast brings out the point we wish to make.

Difficulties of Dyarchy.

45. The explanation of this rigidity is, in part, the traditional nature of Indian government. Rules and regulations meet the administrator at every turn. But it is emphasised by the fixed distribution of provincial subjects between Ministers and Members of the Governor's Executive Council, which is the essence of dyarchy. Certain portfolios must be in the hands of Councillors; certain other portfolios must be in the hands of Ministers, at any rate so long as Ministers can be found to hold them. It was thus hoped to give Ministers experience of departmental administration, and to develop, both in them and in the legislatures to which they are responsible as far as these transferred subjects are concerned, experience of constitutional responsibility. There has been much useful work done under this system, and the criticisms we have felt bound to make where it has failed to produce good results are not at all intended to deny the degree of success which it has sometimes attained. Dyarchy as a training ground has this to its credit that it has brought home to some who had no previous experience of the task of government the difficulties of administration and the meaning of responsibility. But it seems to us clear that a system which was designed to develop a sense of responsibility has sometimes tended to encourage a wholly different attitude. As long as dyarchy continues, it is inevitable that the elected members of the legislature should tend to show an exaggerated hostility to the work of the reserved half of the Government, which they may criticise but cannot control. If money is wanted for "nation-building" services, the temptation

to blame reserved departments for spending too much is far more attractive than the alternative course of imposing new taxes. And if new taxes were imposed, where is the guarantee that the proceeds would be devoted to the purpose intended? A legislature with Ministers responsible to it for certain departments of government naturally looks across the boundary to the forbidden territory reserved for a different system of administration, and loses much of the value of its control over ministerial policy by indulging in bouts of criticism of departments which are not in the hands of Ministers. These reserved departments are exceedingly important, including in their scope police, the magistracy, jails, irrigation and land revenue. But it seems to us that the consequences and tendencies which we have been describing proceed not so much from the fact that in a given case this or that department is administered by an official, as from the fact that a hard-and-fast line is drawn between topics which may be, and topics which cannot be, entrusted to Ministers. There is, in fact, a real appreciation on the part both of Ministers and of the legislatures of the help which experienced officials bring to the work of government, though the debt is not always openly avowed by the legislatures. Relations between Executive Councillors and Ministers are, we believe, intimate and friendly. But rigid dyarchy is a standing challenge which either ranges Ministers against the reserved half of Government or exposes them to the charge of being the subservient tools of the bureaucracy. And all the time the growth of real responsibility (which was the object of the adoption of the system) is being hindered.

Unitary Governments to be Established.

46. We propose, therefore, that the rigid division into reserved and transferred subjects should disappear. All alike will be in the common category of provincial subjects. The sum total of them will constitute the range of provincial administration. The provincial Cabinet should be unitary, i.e., every member of it should be required and prepared to take responsibility for the whole policy of provincial government. We do not say that in every province all portfolios should be held by Ministers who are elected members of the provincial legislature. But there should be no statutory classification of subjects such as would make it legally impossible for a Minister chosen from the elected members to be in charge of any of them. Whether the Governor, when he forms his Cabinet after a general election, will include in it one or more non-elected persons (who would thereupon become ex-officio members of the legislative council and ought to be known as Ministers, like their colleagues) is a matter which he will decide, acting under the superintendence and control of the Governor-General. We conceive that there is likely to be some variation in this respect between one province and another, but such variation will not be due to statutory discrimination but to

the working out of the general enacted scheme, under the influences we have described, according to the varying needs and circumstances of the case and the time. But we hold that, whatever be the composition of the body, joint responsibility for all the acts and policies of the Cabinet must be accepted by every member of it, as long as he remains a member. Divided responsibility means blurred responsibility, and if self-government in the provinces is to become a reality, Ministers must take responsibility for unpleasant tasks as well as for popular proposals. In order to assist them in maintaining their position and in preserving a united front, we think that two changes might be made. First, it should be provided in the constitution that ministerial salaries are not liable to be reduced or denied by a vote in supply: the existing scale of salaries should be alterable only by a provincial Statute regularly passed through all its stages. Secondly, it should be constitutionally established that the only vote of censure which could be proposed would be one against the Ministry as a whole carried after due notice; the practice that has grown up in some provinces of claiming to censure one Minister without thereby involving his colleagues is destructive of the principle of joint responsibility. These two changes are proposed in order to assist in the realisation of a desire expressed in the Montagu-Chelmsford Report,* that a Minister, selected by the Governor for appointment after a general election, should enjoy a less precarious tenure, unless, of course, he resigns or unless the Governor calls for his resignation. The persistent opposition of the legislature to a policy for which a Minister has made himself primarily responsible, or the continued refusal of supply, may of course bring about a situation in which it is felt that a change in the composition of the Cabinet is required; but we think that under the conditions which have developed in the Indian provinces, Ministers are too much at the mercy of hostile combinations against them for good work to be done. Ministers need to feel that they are assured of a reasonable period within which their policy may mature and its results may be judged; at present some of them are so much occupied in maintaining their position by securing the temporary support of this or that group of critics or malcontents that it must be very difficult to carry on the main work of ministerial government at all.

There is a third point of a somewhat different order. Ministerial posts in an Indian province are positions of great authority and considerable emoluments, but they are very few in number, and as yet every holder of a ministerial post is within the inner circle of administration. In England the list of Ministers is considerably larger than that of members of the Cabinet, and the distinction between a Cabinet Minister and a Minister who is not in the Cabinet is also found in the Dominion of Canada and elsewhere in the Empire. It seems to us that

* M/C. Report, paras. 218, 222.

it may be worth considering whether, without unduly increasing the sum total of ministerial salaries, the appointment of certain minor Ministers, or Under-Secretaries in the British sense, will not be desirable. There may indeed be cases where such an arrangement would contribute to an easing of communal strain, for an Under-Secretary and his Cabinet chief would not necessarily be drawn from the same community. Such a plan might contribute, in spite of the existence of shifting groups, to the stability of an Administration.

Legislatures' Control over the Whole Field.

47. While everything possible should be done to prevent factious undermining of the stability of the Government, we cannot state too clearly that, with the disappearance of the distinction between reserved and transferred subjects and with the unification of the Ministry, its responsibility to the legislature will exist over the whole provincial field, and not as at present over part only. It will be a real and undisguised responsibility. There must be important limitations on the power of the legislature to have the last word in all circumstances, and to that point we shall return immediately; but there should, in our view, be no provincial subject on which the provincial Government, as now, can but say to the legislature "you may discuss this, you may vote (or refuse to vote) necessary supply, and we will pay the greatest attention to what you say, but you have no responsibility whatever."

Composition of the Ministry.

48. We have indicated that a Governor may well find it desirable to include in his Ministry one or more persons who are not elected members of the legislature. Ordinarily such persons would, we conceive, be experienced officials, but on occasions it might well be found useful to include a non-official whether Indian or British not belonging to the legislature. The Governor and the Ministry will, we feel sure, often find such colleagues invaluable. It is important, however, to remember that such Minister will not—any more than any other Minister—have any overriding authority in matters within the scope of his portfolio, but that, in any matter of gravity sufficient to come before the whole Cabinet, the decision will be a joint decision of the Cabinet.

Overriding Powers of Governor.

49. At this point we are inevitably faced with the vital question whether the Governor is to be in the position of a strictly "constitutional" Governor, bound to accept in all circumstances the joint advice of his Ministry, or, on the other hand, whether he should have in reserve the theoretically unrestricted powers of overruling them, which he now possesses *vis-a-vis* his Ministers (or the nearly equally unrestricted powers which he possesses of overruling his Executive Council).

We consider it of great importance that the answer to this question should not be left in doubt. Constitutionally speaking, a middle course must be steered. No provincial Government and no Provincial Committee has proposed that the Governor should invariably be bound in reference to all subjects by the advice of his Ministry (nor does the Central Committee take that view), and we regard it as beyond question that to attempt to introduce such a practice in present circumstances would be disastrous. The intensity of communal divisions, the general absence of stable parties with assured majorities in the legislature and the lack of experience of the working of a fully responsible system of Government, all present insuperable obstacles. On the other hand, the constitutional development at which we are aiming, and the growth of a sense of responsibility, would be unnecessarily hampered if the Governor had absolutely unlimited powers of overriding his Ministry.

50. We think the Governor should, on the administrative side, be given statutory power to direct that action should be taken otherwise than in accordance with the advice of his Ministry (though subject always to the superintendence, direction and control of the Governor-General) only for certain purposes. Two of these are fundamental to the preservation of the peace and good government of the province. We are not attempting to settle the draft clause, but we should be disposed to describe these two as matters in which, in the Governor's opinion, he must give such directions :—

(1) In order to preserve the safety and tranquillity of the province; or

(2) In order to prevent serious prejudice to one or more sections of the community as compared with other sections.

We are not at present referring to financial safeguards, which we shall deal with separately, nor to the powers which the Governor must have in reserve in respect of certain classes of legislation.

There are three other purposes for which we think the Governor should possess overriding powers, and it is convenient to mention them at once, though their importance is mainly technical and connected with other aspects of the constitution :—

(3) To secure the due fulfilment of any liability of Government in respect of items of expenditure not subject to the vote of the legislature.

(4) To secure the carrying out of any order received by the provincial Government from the Government of India or the Secretary of State. (The degree of control of these authorities is discussed hereafter.)

(5) To carry out any duties which may be statutorily imposed on the Governor personally, such as duties in connection with some service questions and responsibility for backward tracts.

Procedure at Meetings of the Ministry.

51. As we have mentioned, widely divergent views have been advanced on the subject of the part which the Governor should normally play in the day to day work of the Ministry. We think that there should be no rigid statutory rule on this point. Circumstances will differ from one province to another and from time to time in the same province. It may conceivably sometimes be wise for the Governor to preside at every meeting of the Ministry, but ordinarily we should expect that much work could be disposed of without his being present. The matter should be left to the discretion of the Governor. We think, however, that it would be desirable if the rules of business (which should be made by the Governor, as they are at present) provided that the minutes of any meeting of the Ministry from which the Governor is absent should be sent to him, and it should be open to him to suspend any decision until the question has been further discussed at a meeting at which he is present.

Here we would make a suggestion which ought not, we think, if it is adopted, to be expressed in any mandatory or statutory form, but which we believe would be found to lead to a useful arrangement of Cabinet machinery. It follows the line of development which was first adopted in England about the time of the Montagu-Chelmsford Reforms and which has now become, by the practice of successive Governments, a normal usage. In old days, British Cabinets kept no formal account of their proceedings and decisions, though these were, of course, translated into action and recorded where necessary in the minutes of the departments specially concerned, and often became the subject of official announcement. But during the War, the pressure of important business and the necessity for rapid and accurate transcription of Cabinet decisions led to the establishment of the post of Secretary to the Cabinet. Since that date, as we understand, the practice has continued, and we think it provides a model which in the new circumstances of provincial government in India might well be followed. The post would be held by a civil servant who would not only be responsible for keeping the record, but would have direct access to the Governor, so that, whether His Excellency was present at a given meeting or not, he would be kept impartially and fully informed of the course of business. A very similar function is, we believe, already discharged by various Secretaries to Government when the affairs of their respective departments are under discussion, so our proposal is on lines which are not unfamiliar.

52. It would be convenient, and we hope it may be useful, if at this point we add a more general observation on the subject of Cabinet procedure. We have been greatly struck, in the course of our enquiries in India, and in listening to the accounts given to us by Indian Ministers and others, with the tendency to treat decisions of high policy, in confidential discussion among

those responsible for deciding them, as matters which in the end come down to a counting of votes on one side or the other. To some extent, no doubt, this is due to the special difficulties which arise so frequently out of questions involving communal or racial feeling. But the tendency to carry opposition of view to the point of formal difference, and to reach a decision by the counting of votes, is directly encouraged by statutory provisions prescribing what is to be done in cases of difference of opinion in the Governor's Executive Council. It may be that dyarchy itself sometimes contributes to a similar attitude. At any rate, what we observe is more than an incident of Indian administration; it almost amounts to a theory of Indian government. Now, those who understand the working of the cabinet system in England, or have any experience of it from the inside, know that though differences of opinion inevitably arise from time to time in all councils of Ministers, and though these differences may in the course of discussion be sharply defined, the ultimate conclusion is not only regarded in theory as a decision of the whole Cabinet, but is reached, under the influence of the presiding Minister, by a process of conciliation or of yielding to the prevailing view. In the result, not only is the theory of joint responsibility maintained, but the solidarity of the Cabinet is in practice preserved. The occasions on which an actual vote is taken are, we believe, very infrequent and usually on quite minor points. Hitherto a rather different conception of the work of a Governor's advisers when confidentially consulting together seems to have prevailed in India. The change cannot be commanded or prescribed by statute; it is a change in the spirit in which government responsibility is undertaken. For the development of responsible self-government in the provinces and the establishment of a healthy relation between the Cabinet and the legislature, such a change of spirit is exceedingly important. There ought not to be in the new Statute any counterpart to sub-section 1 of section 50 of the Government of India Act, not because, if differences of opinion arise, the majority must not prevail, but because it ought to prevail by reason of the minority accepting and taking responsibility for the policy adopted.

The Reality of Ministerial Responsibility.

53. We shall deal, later on, more fully with questions of legislation and finance, but we may mention at once that we consider that for the purposes for which the Governor has statutory power to overrule his Ministry, and for those purposes only, he should have the power of restoring rejected demands for votable grants, and of securing the passage of legislation by certification. In those special fields he must have complete powers in reserve.

But apart from these specific cases, it will be for the Ministry to secure at the hands of the legislature the adoption of grants proposed by the Government for such purposes. It would be tempting to confer on the Governor wider powers than these,

to get his advisers out of the difficulty which may arise if the legislature refuses the supply that is needed. But, however tempting such an extension of the Governor's reserve powers might be, it would in effect be relieving his Ministers of a portion of the responsibility which they ought to bear. It is this which we have more than once referred to as the "blurring" of responsibility. Self-government in the provinces can only become a reality when the Governor does not come in like a *deus ex machina* to make the wheels go round. The principle which we think ought to be insisted upon is that as long as the normal processes of responsible government are being pursued, the responsibility which properly attaches to government should be jointly borne by those who have the honour and the care of office. We are bound to make the provisions in para. 50 for the critical cases which may arise when the rights of minorities are put in jeopardy, or the peace and security of the province are put in serious peril, as well as for cases where vital interests not limited to the province are involved. But subject to this, responsibility in the face of the provincial legislature should rest where it constitutionally lies, as long as normal constitutional government is being carried on.

The Governor's Role under the New System.

54. Such a view by no means involves the consequence that in the future the burden resting on the shoulders of a Governor will be lightened. On the contrary, the chief anxiety which we feel about the scheme we have expounded as a whole is that for its proper working, for a long time to come, it will be necessary to secure for the post of Governor a succession of men endowed with all the qualities of tact, judgment, sympathy, and courage which have so often distinguished holders of this high office. Upon them, more than upon anyone else, will fall the duty of counsel and guidance which may bring the advance towards provincial self-government to a happy issue. Let us briefly sketch the part which such a Governor may have to play. After a general election in the province the Governor will consider its results, and take due note of the evidence it affords of the state of feeling prevailing in the electorate. His immediate concern is to decide from what sources and by what individual selection he will compose his Cabinet. Can his Ministry be built up entirely out of the list of newly elected members, or should he in distributing portfolios seek to include others? He may have to consider whether he can draw his advisers solely from one party, or whether it may be necessary to take a wider range. He will be acting, so far as necessary, in consultation with the Governor-General, and we conceive that the inclusion or exclusion of one or more officials in his Cabinet will to some extent be determined by the special needs of his province and by experience. If the plan is adopted of selecting in the first instance a Chief Minister, this Chief Minister

will, of course, be in the special confidence of the Governor and will be able to assist him with advice in selecting other Ministers, though the Governor would remain responsible for the actual choice. When the Government is fully constituted it will be for the Ministers, acting on the principle of joint responsibility, to promote and advance the policies and proposals which the Government resolves to adopt. If the provincial legislature rejects a Bill or a grant, the action which follows will depend on the circumstances. If the rejected proposal falls within the limited class above indicated, it would be in the power of the Governor to intervene by certification or by replacing the grant. Whether he did so or not would depend, subject to any directions he may receive by or through the Governor-General, upon his discretion. But if the rejected proposal falls outside this special class, there would be a choice of courses amongst which to select. There would be cases, as there are from time to time under the British parliamentary system, in which the Government accepts the decision and acts in accordance with it. There would be other cases where the Government adopts some method which will give the legislature an opportunity of reconsidering its decision, or at least of modifying its previous view. The Governor may think well to exercise the power which resides in him of addressing the legislature, either in person or by message. If the matter is one not capable of such treatment, the question would arise whether the Government as then constituted could go on. The Governor will have to consider the situation closely and anxiously. Sometimes the difficulty may be got over by some partial reconstruction of the Government. Such a solution is no breach of the doctrine of joint responsibility; it means that, in order to surmount a difficulty, or reinforce an Administration, some change in personnel is required. There still remains the more extreme course of forming a new Government, either because the Chief Minister and his colleagues resign, or because the Governor, having regard to the political situation, thinks that the existing Administration must be dismissed. And lastly there is the instrument of dissolution. Similar considerations apply for the most part if the legislature carries a vote of "no confidence" against the Ministry. We have already said that it ought to be constitutionally established, probably by statutory rule, that such a motion must be against the Ministry as a whole.

All that we have been describing is, we think, involved in the application to Indian conditions of a system of provincial responsible self-government, and falls within the normal working of that system. We shall, in a later paragraph, sketch an alternative system, by no means to be confounded with the above, which we think must, in the last resort, remain available if, and only if, it became impossible for Government under the normal system to be carried on.

Possible Grounds for Criticism.

55. Our recommendations regarding the provincial Executive will not be complete without some reference to the measures to be taken in the event of a possible breakdown of the normal constitution; but before approaching that subject, we propose to consider some of the criticisms of our proposals that are likely to be advanced. No scheme that can be devised will escape criticism and our plan is doubtless open to some of the comments suggested in the course of the evidence and memoranda before us. One point on which attention is likely to be focussed is that the constitution sketched would be silent, so far as the Statute is concerned, as to inclusion of members of minority communities in the Ministry. We have seen no practical proposal by which their inclusion could be statutorily guaranteed, unless a suggestion of some members of the Madras Government that the Ministers should be elected by the legislature by proportional representation could be so described. This, however, is a proposal which we are unable to accept. We think it impossible to have any rigid and formal provision governing this matter, and security for minorities must be furnished by other means.

In some provinces we conceive that a reasonably stable Ministry is hardly possible without the inclusion of Ministers from the main minority groups. In others prudence would dictate the adoption of a similar course, even when it is not inevitable. It is beyond question that the task of the Governor in attempting to form a Ministry which is prepared to accept joint responsibility and is likely to command for some time the support of a majority of the legislature will often be one of great delicacy and difficulty. But we can see no future for responsible government in India if these difficulties are not directly faced and in the end surmounted. We have indicated that we think there should ordinarily be a Chief Minister, whom the Governor would consult before appointing other Ministers. But there should be no requirement in the constitution to make such an appointment, as it is possible that in some circumstances the formation of a Ministry from different communities might present less difficulty if there was no Chief Minister and no recognised leadership of the Ministry, apart, of course, from the Governor's special position.

Exercise of the Governor's Powers.

56. Another objection that may be raised is that the special powers to be reserved for the Governor will be greater than those now exercised by him in practice (though not in constitutional theory) in the transferred sphere. This we conceive to be a misapprehension. The vital objects for which alone these powers are to be used are such that, if they now arose in relation to a transferred subject, there could be no question but that a Governor would properly invoke his present powers of dissenting from his

Ministers. The really significant feature of our plan is that the Governor's powers (apart from emergencies) will in future be exercised only for specified and limited purposes. Suspicion is also likely to be aroused in some quarters by the proposed discretion in the Governor to appoint official Ministers. This, we think, should be largely allayed by a realisation that such a Minister will have no special powers of imposing his view on the Ministry as a whole, and will in no way resemble, in constitutional position, an Executive Councillor. All Ministers will be colleagues with joint responsibility and equal status amongst themselves. It is undoubtedly true that difficulties may arise over the position of an official Minister in the event of a change of Ministry. Generally speaking, there will be no objection to his continuing as a member of a new or reconstituted Ministry, but circumstances may arise rendering this undesirable. We fully appreciate that his own position will not always be easy, for, as we have said, he will have no separate or overriding authority, and will serve within the Ministry in support of its general policy, while taking special charge of his own portfolio. Such a position may appear anomalous to the constitutional purist, but we are more concerned to see such provision made as may be practically required to meet the very special difficulties which provincial Governments in the time now approaching will have to surmount. Indian Ministers have good reason to know how faithfully and disinterestedly distinguished and experienced officials have served in the provinces, and we do not believe that difficulties of theory will prevent hearty co-operation for the purpose of expanding the range of provincial self-government.

We fully appreciate that the Governor's position will become embarrassing if, in the exercise of his special powers, he is opposed by a united Ministry supported by a substantial majority of the legislature. But it is exceedingly unlikely that measures taken by the Governor for the preservation of peace or the protection of minorities will be such as not to receive the tacit, if not always openly expressed, approval of a substantial section of the public, and we should hope that opinion will, in the end, generally rally to his support. Whatever the criticism, it surely cannot be disputed that the special reasons for which he may have to intervene are paramount.

Treatment of Law and Order.

57. There is a third point arising out of the scheme we have described, which is likely to provoke, as indeed it ought to receive, a good deal of serious discussion. We refer to the situation which would result in respect of the all-important subject of Law and Order. Law and Order, as we have pointed out elsewhere, is a popular expression the use of which sometimes conceals the fact that more than one subject of provincial administration is involved. The phrase " Law and Order " does not occur in the Government of India Act, nor in the Devolution Rules. The topics which are usually intended to be referred

to by the use of this phrase have to be collected from several paragraphs in the list of provincial subjects. No. 32 is "Police" (though this must be read subject to paragraph 31 in the List of Central Subjects, "Central Police Organisation"). No. 17 of the provincial subjects begins with "Administration of Justice." The appointment and work of the subordinate magistracy are, of course, important in connection with the administration of Law and Order. Criminal law, including criminal procedure, is a central subject, but para. 39 of the provincial list throws the administration of prisons and reformatories into the provincial sphere. We have, in the course of the first volume of our Report, described the existing organisation of the police. While the officers of the Indian Police Service are recruited by the Secretary of State on an All-India basis (and we intend that this shall continue), they are allotted to the province in which they serve, and their salaries fall on provincial revenues. The rest of the personnel, including all the rank and file of the police force, is recruited as well as paid by the provincial Government. So long as Police is a reserved subject there remains in the Central Government the power of superintendence and control, in the exercise of which the Home Department of the Government of India may communicate with the provincial Government by way of enquiry, suggestion, recommendation, and even direction. We have already stated in paragraph 50 of this chapter the powers which would rest in the hands of the Governor under the new arrangement which we propose; and we shall in a later paragraph describe the more drastic power which must be reserved against actual breakdown. But the whole subject of Law and Order in India is of such overwhelming importance that we must now set out the main considerations on both sides of the argument, and explain why, in spite of the strength of the arguments on one side, we believe the path of true statesmanship lies on the other.

The Case For and Against Change.

58. The proposal that Police should cease to be a reserved subject is a focus of controversy. There is a strong inclination in many quarters to deal with the question on abstract and *a priori* lines. If Education and Local Self-Government are transferred subjects, say many Indian politicians, why should Police not be transferred also? If the question so put were treated as disposing of all further analysis, it would ignore the special difficulties arising from the nature of the subject matter. In the same way, there are British politicians, sincerely desirous of helping India along the road indicated by the declaration of August 20th, 1917, and by the Preamble to the Government of India Act, who may find great difficulty, whether from want of appreciation of Indian conditions, or from an innate conviction of the curative effects of self-government, in realising why it is that many experienced and disinterested administrators who are familiar with the actual situation, as well as important bodies

of non-official opinion, hesitate to give their support at the present time to the proposal. It would do a great injustice to these men to dismiss their view as mere bureaucratic prejudice, and it would be a grave failure in the discharge of the Commission's duty to the British Parliament if we did not state with fullness and candour the reasons which, in the minds of so many men with actual experience of India, have led them to advise against the step.

59. We propose, therefore, to state, as clearly and as impartially as we can, what are the grounds for this view. And we are bound to point out that it is a view by no means confined to the majority of British officers who are Inspectors General of Police in the various Provinces, or to others whether British or Indian in important official positions, but it has been expressed, or impliedly supported, by large bodies of non-official Indian opinion.

60. A police service exists for the purpose of promoting justice and of preserving order. The first essential of justice is that its agents should act impartially. The primary test of any organisation for preserving order is that it should be able to stand the strain of a crisis. The anxieties of those who, however friendly to Indian aspirations, oppose the transfer of Police to an Indian Minister arise on both these heads. As regards impartiality, no reflection is necessarily involved on the character of any individual, but the difficulty is that an Indian Minister of Police is almost of necessity a member of one or other of the great religious communities whose mutual reactions lie at the root of the Indian problem. Up to the present, the influence of communal feeling inside the rank and file of the Police Force is strikingly absent. We have had testimony from the administrative heads of the Indian Police in all parts of India that the men under their command are sufficiently well disciplined and sufficiently loyal to duty to obey orders and act impartially, even in a situation where their religious feelings may be deeply stirred. There is indeed, by almost universal admission, a great deal of corruption in the lower ranks, as there is in similar grades of other branches of Indian administration, but there is good reason to believe that the action of the ordinary policeman is not at present influenced by his own communal feeling. When one considers the vast areas to be administered, the ignorance and helplessness of the ordinary citizen, and the impossibility of checking from headquarters the injustice which communal bias inside the Police Force would inflict on the countryside, it is impossible to minimise the importance of preserving this satisfactory feature. Now there is an almost universal consensus of opinion among the police chiefs in India that this impartiality of action is due, not only to the training and discipline of the Force, but to the ordinary policeman's knowledge that he will be supported in the due discharge of his

duty and will not be sacrificed to clamour or intrigue. Their fear, therefore, is that an Indian Minister, highly susceptible as he is bound to be to criticism and exposed to political pressure, especially from his own community and his own friends, may not be able to supply the condition upon which impartial police action depends. And those who take this view would add that the real point is not what others think, but what the rank and file of the Police Force fear. If, for example, a policeman believes that his action in suppressing a riot would be differently judged according to the community to which the Minister belongs, impartiality in police action is destroyed.

Effect on Public Confidence and Security.

61. So much for the police constable's own belief in the impartiality of his superiors. But the effect of transfer upon police administration must also be considered from the point of view of the ordinary citizen. We have had abundant evidence to show that in times of communal excitement one or other of the communities at variance, and sometimes both sides, express a wish that local police administration should be in the hands neither of a Hindu nor of a Muhammadan. If a European officer cannot be spared, an Indian Christian may be sent, and sometimes an effort is made to create a balance by sending representatives of both the communities which are at variance. The advantage which the European has in this connection arises largely from the fact that he is a neutral and is therefore not suspected by the public of any wish to prefer one side. The question, therefore, arises whether the confidence of the ordinary public in India in the impartiality of police administration may not be seriously affected by placing its control in the hands of an Indian Minister.

62. But the anxieties of those who advise against the transfer of the subject of Police are by no means limited to the fear that the confidence of the rank and file in just treatment by their superiors may be affected or that the belief of the public in the impartiality of the administration may suffer. What about the preservation of order? It often calls for prompt decision in embarrassing circumstances. At present it is the prestige of the security services which is a chief element in preserving order. The opponents of transfer would argue that the force employed would be much too small to hold down a countryside, and the danger which has to be guarded against is lest a breakdown of police administration in one corner should spread rapidly and with devastating effect over a wide area. Deterioration in other services, e.g., the medical and hospital services, might go on steadily and insidiously for a long time without producing a sudden disaster. But deterioration of the Police Force, carried to a point where the loyalty and discipline of even a portion of the Force could not be relied upon, might have sudden and widespread consequences of the gravest kind upon the general peace.

Recommendation in favour of the Change.

63. Many may be tempted to think that, if these considerations are well-founded, their cumulative effect is so strong that the administration of provincial Law and Order must remain in the hands of an Executive Councillor who is not in any way responsible to the provincial legislature. But just as we have made no attempt to minimise the weight of the arguments in favour of this course, so we ask for full consideration of what may be said for our own proposal. It will be recalled that we are not suggesting that a provincial Government must be deprived of the strength and experience which official training supplies, and we contemplate that, at any rate in some provinces, an administrator of this experience would be in charge of the Department of Law and Order, though the Statute would not enact that this must be so. It will, of course, be understood that an official member of a provincial Cabinet is not necessarily a man of British birth; in fact, the Department of Police has been administered, with acknowledged success, in more than one province by an Executive Councillor who was an Indian and, moreover, was not a member of the civil service. This being understood, we summarise the arguments which we think should prevail. If Police continues to be a reserved subject, this necessarily means that dyarchy continues. All the criticisms and denunciations to which it is exposed, whether from British or Indian commentators, cannot be met effectively unless the step we propose is taken. Many people who have not had the opportunity of examining closely the structure of Indian administration both in its central and provincial aspects, and the conditions which control the shape of that structure, might be tempted to suggest that Law and Order should become a central subject, and that provincial Governments should cease to have any responsibility for it. Close examination has convinced us that the suggestion is impracticable. If the subject of Police were centralised, it would still be necessary for the Central Government to administer it through provincial agents, and the provincial agents would presumably be the Governors. This would set up a strain between the head of the province and the provincial legislature which would not conduce to good relations. Another consequence of centralisation would be that police finance would become a subject for the Central Legislature, and would have to be met out of central funds. Moreover, police administration cannot be isolated in this way. The subject of Police does not constitute a department in the same sense in which the subject matter of an education department, or a medical department, or a roads department, may be said to be departmental. Every branch of provincial Government is involved; a reasonably efficient police administration is the condition under which all departments may operate; it is the atmosphere without which the departmental activities of the province cannot breathe. We feel sure that we shall be confirmed by experienced official opinion

when we lay it down that Law and Order must be a provincial subject, whatever be the degree of supervising control which the Centre may exercise.

If this is conceded, the choice is seen to be what we have already indicated, viz., a plan such as we recommend, or the continuance in the provinces of dyarchy, which was admittedly intended to be only a temporary stage, and which, in spite of much good work, is open to the objections we have set out. Is dyarchy to continue indefinitely, or is it to be ended in the only way in which it can be ended, by making the administration of Police a subject for which a unitary provincial Government must take responsibility? Many who hesitate to recommend the transfer of the Police would be quite ready to see the transfer of some other subjects at present reserved. If the object were to avoid all risks, there are grave risks which would be run in the transfer of Land Revenue or Irrigation. But the transfer of other subjects without transferring the Police would make matters worse. It would concentrate on the administration of Law and Order the hostility of all parties in the provincial councils who are looking forward to more complete self-government, and who find this one matter kept in reserve as a target for irresponsible criticism. We must face the fact that responsible government in the provinces cannot be achieved without this change. An Indian Minister appearing before us made the observation that, if men in his position were not fit to administer this subject, they were not fit to administer anything; and we are bound to say that such an attitude is perfectly natural. At present, the relations between provincial legislators and Executive Councillors are, as a rule, cordial; but the temptation to use the opportunities of question and debate to challenge a police administration for which legislators take no responsibility whatever is sometimes irresistible. If essential Votes for the Police Force cannot be got through, the Governor's power of restoration has to be employed, and all the time the unhealthy atmosphere remains in which elected representatives of the province, and even Ministers who are responsible to them, treat police administration and expenditure as a subject in which it is for others than themselves to bear unpopularity. In such a situation, the right course seems to us to be to try to change the atmosphere by fixing responsibility upon the shoulders of the critics, and to make those who claim to speak in the name of the province take the part which properly belongs to them if provincial self-government is ever to become a reality. Law and Order is the first interest of every Indian citizen, whether in town or country The time has come when it ought to be no longer possible to represent, or to misrepresent, the agents of authority who are so faithfully supplying this first need of civilised existence as the minions of an alien bureaucracy. As things are the policeman in his red *pagri*, the village *thana*, and the whole hierarchy of the Force, tend to be regarded as the embodiment of all that the

Indian politician criticises and declaims against. It is not a sufficient answer to say that the declamation is sometimes extravagant, and that the criticism is often irresponsible. The real question is, What is the future which we contemplate when things have got to this point, if the present arrangements for the Police remain unaltered? A continuation of the present situation leads nowhere. It is for these reasons that we have become convinced that the bolder course is also the wiser course, and that, while making available the experience and guidance which will be needed, and preserving the safeguards which common sense dictates, we should provide that the department of Law and Order is to be no exception to the general rule of provincial responsibility.

Summary of General Conclusions.

64. What we have written will, we hope, establish that we are fully alive to the gravity of the decision now to be taken. And indeed, the question of the future treatment of Law and Order in the provinces of British India is a very grave question. We are unanimous in presenting the view that provincial dyarchy should now come to an end in the sense that a unitary Government should be established, composed of members appointed by the Governor, and that the Statute should be in such form as to make it possible for such a Government to include an element drawn from official or other non-elected sources. We have considered whether the Statute should fix the number of Ministers of this class, and we think it should not, because it is more consistent with the general scheme we have in mind to leave a certain flexibility in the arrangements which the Governor, acting in consultation with the Governor-General, will make for his own province when from time to time his Cabinet is appointed. One of our number (Lord Burnham) would prefer, however, to see in the Statute a provision that in every province one or two places in the Cabinet should be reserved for officials, though there would be no statutory provision as to the portfolios which these officials would hold.

Special Provisions for a State of Emergency.

65. So far we have been sketching what we may call the normal constitutional system in Governors' provinces. There is, however, an eventuality for which we feel bound to recommend that express statutory provision should be made. Experience in the past has shown that, however carefully a provincial constitution may be framed, a breakdown may occur through such causes as complete inability to form or maintain in office any Ministry enjoying support from the legislature. A situation equally grave would arise if there was widespread refusal to work the normal constitution of the province, or general adoption of a policy which aimed at bringing government to a

standstill. We hope that the extended trust now to be placed in representative institutions will bring about such a change of atmosphere and attitude as will make such developments unlikely. But, if such an emergency were to arise, it is essential that the King's Government should none the less be carried on. The insertion into the constitution of provisions to secure this is no denial of self-government; it is an ultimate resource if self-government is repudiated. We accordingly recommend that the Governor (subject, as in other matters, to the superintendence, direction, and control of the Governor-General) should be given statutory powers to declare that a state of affairs has arisen under which the government of the province cannot be carried on in accordance with the provisions of the Statute, and, thereupon there should vest in the Governor all the powers normally possessed by the Governor and his Cabinet, with the right to appoint any persons to assist him and to delegate powers to them, and the right to nominate any such persons as members of the legislature. The Governor would have further powers to restore rejected demands for grants, and to certify legislation if in his opinion it is essential for any interest in the province—a power which it will be observed is wider than his normal powers set out in paragraph 50 above. It should be provided that the reasons for declaring that such a state of affairs exists should be reported at once to Parliament, and that these special powers should not remain in operation for more than twelve months without the approval of Parliament expressed by resolution of both Houses. The language in which we have sketched these special powers contemplates that the legislature would remain in existence, but provision would also have to be made to ensure that any necessary powers equivalent to powers of legislation (including all necessary financial powers) would be exercisable by a Governor's order in the event of the legislature refusing to act.* These emergency powers should be provided for in the Statute itself. We are not suggesting that the adoption of our scheme is likely to create a situation in which resort to these emergency powers would arise, but it seems to us that we should be failing in our duty if we did not indicate the necessity for such provisions as a way of dealing with an ultimate possibility.

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* See also para. 99.

APPENDIX VI.

Summary of Report of Orissa Sub-Committee.†

(Note:—The Sub-Committee consisted of Dr. Suhrawardy, of the Indian Central Committee, the Raja of Kanika and Mr. Lakshmidhar Mahanti of the Bihar and Orissa Provincial Committee, with Major Attlee as Chairman. The Sub-Committee had the advantage of the assistance of officers who had served in the area, and two of its number had represented parts of the Oriya-speaking country on legislative bodies.)

(1) Distribution of the Oriyas: *

(a) In Bihar and Orissa Province	4,798,768
(b) Orissa Feudatory States	2,940,338
(c) In Madras Presidency	1,566,966
(d) In Central Provinces	190,294
(e) C.P. Feudatory States	58,578
(f) In Bengal Presidency	142,107
Total	9,697,051

(2) The case of the Oriya-speaking peoples is based on the fact that, although possessed of a common culture and language, they are now divided among a number of separate administrative areas in all of which they form a small minority. They claim to be a distinct people with a history and tradition of their own. They claim that all the Oriya tracts should be amalgamated, and that this single unit should be either a separate administration or incorporated as a whole with another. The Sub-Committee considered that the grievance was well founded, the demand substantially supported by the people, and the Oriya case deserving of sympathy.

(3) The Sub-Committee considered in detail the areas comprised in the above table. It took into consideration not merely linguistic and racial composition but administrative and economic factors, and came to the following conclusions. The population of the Orissa Division is 90 per cent. Oriya and forms the natural nucleus of the race. Angul, though containing many aborigines, should be included. The Orissa Feudatory States which are not part of British India should be brought into relationship with any administration set up for Orissa. Singhbhum contains less than 20 per cent. of Oriyas and 75 per cent. of aborigines. The composition of its population, its geographical position, and its economic interests militate against its inclusion in Orissa. The Sub-Committee recommends its exclusion. In Bengal there is only the possibility of minor adjustments of boundary in the circles of Mohanpur and Goballipur in the interests of Orissa. In the Central Provinces with the exception of the Khariar estate the Oriyas are in a minority; generally they do not exceed 25 per cent. Minor adjustments only are recommended. In Madras it is not recommended that any part of the Vizagapatam Agency Tract should be transferred as the lines of communication run south east, and it is necessary that this backward area should continue to be linked with the coastal area of which it forms the hinterland. As regards Ganjam, while the evidence is contradictory, and linguistic, racial and economic considerations conflict, it is recommended that all parts of the district north of a line drawn westward from the coast between Ichapuram and Sompeta to the Agency and those parts of the Agency where Khonds predominate should go to Orissa. The Sub-Committee came to this conclusion in the light of present communications, but railway and road development in the north of the Presidency may invalidate the view now advanced.

* See Linguistic Map at the end of this volume.

† See p. 25 above.

(4) After consideration of the alternatives of transfer of the territory as a whole to a particular province, and the creation of a sub-province, the Sub-Committee was in favour of the creation of an Orissa province, although it recognised that the decision involved the larger question of subdivision of existing provinces.

(5) Estimates of revenue and expenditure were presented which were disputed and which depended to some extent on unascertainable factors. The Sub-Committee came to the conclusion that with strict economy the new province could just pay its way, if income and expenditure remained as at present, but that the normal income could not provide for a large measure of development, for the needs of the backward areas or for the periodic ravages of flood and famine. The question of the establishment of a separate province, therefore, depends on the financial relationship between the central and provincial Governments in respect of deficit areas.

(6) The Sub-Committee recommended that special precautions should be taken to ensure the reliability of returns at the next census.

(7) Mr. Lakshmidhar Mahanti thought that the boundaries of Orissa might be considerably extended, especially by the inclusion of Singhbhum.

CHAPTER 2.—THE PROVINCIAL LEGISLATURE.

66. It now becomes necessary to re-examine the present structure and powers of the legislative councils, and to consider, in the light of the experience of their nine years' working and of the general principles of the proposals laid down in the first part of this volume, what should be preserved and where reconstruction seems to be required. In our first volume we have given an account, as accurate as we can make it, of the present composition of these bodies; and have tried to form an estimate of the results attained. The degree of success achieved naturally varies in different areas, for the conditions under which the different legislative councils have had to work, and the materials out of which they are composed, themselves greatly vary in different parts of British India.

As we have said elsewhere, it is only fair to remember, in estimating the success of the provincial legislatures, that what was being attempted under the Montagu-Chelmsford Reforms was a new departure and that this new departure was inaugurated less than a decade ago. To some minds, these considerations may seem to provide strong reasons against further change at the present time; but we hold that, if some reconstruction is called for, it is much better to make it without delay, in order that these institutions may develop on right lines. When such changes as may seem desirable are made, it is of great importance that they should be made in such a way as will not require constant revision hereafter, and, above all, will not necessitate the fixing, in advance, of some future date for a further enquiry. We dissent altogether from the suggestion, which occurs in more than one passage of the Montagu-Chelmsford Report, that after the present Statutory Commission has finished its work, further enquiries into the working of the Indian constitution should be fixed to take place at intervals of twelve years. It may turn out that at some time in the future further enquiry will be necessary, and, if so, it will always be possible to set up such an enquiry, we hope with general assent. But what is now needed is a remodelling of the provincial constitution on lines which will give it a reasonable chance of natural and healthy growth without threatening it in advance by a further enquiry. It therefore will be a matter of great importance to determine how much of the new provincial scheme is inserted, in precise and statutory terms, in the sections of an Act of Parliament; how much of it is more appropriately embodied in statutory rules which are capable, under proper safeguards and limitations, of revision from time to time; and how much of it should be expressed or deduced from the Instrument of Instructions to Governors or evolved in the course of constitutional working. These matters are, in part, technical matters such as are properly determined only when the stage is reached of drafting the new Act, and, in part, are matters in which the guidance and advice of the Government of India and the provincial Governments will be of special assistance. Our

main concern is to describe the general scheme which we think would best carry out the purposes to be served, though we shall not fail at certain important points to indicate how far such a scheme should be fixed within the unyielding framework of a Statute and how far more elastic treatment seems desirable.

Maximum Life of Provincial Councils.

67. We will first dispose of a simple, but important, question, the answer to which carries with it no grave constitutional consequence. At present the maximum life of a legislative council extends to only three years from its first meeting. The Governor may dissolve it before its maximum term is up, and in that event a general election will take place in the province within a period that will enable the new council to meet not more than six months (or, with the sanction of the Secretary of State, not more than nine months) after the dissolution of the old one. There is also a power residing in the Governor to extend the three years' maximum, if in special circumstances he so thinks fit, by a further period not exceeding twelve months, and this power has in fact been used recently so that most of the legislative councils now in existence in the provinces of India, are more than three years old. The Governors of Bengal and Assam, however, have recently dissolved their councils, and in each of these provinces a new council was constituted in 1929.

In our opinion, it would be better to extend the normal statutory life of provincial legislatures to five years. The Governor's powers to extend the statutory period would be limited to the purpose indicated in Part IV, Chapter 1, paragraph 135 below. It may have been thought expedient to begin with triennial elections, for voters were so inexperienced that a frequent opportunity for revising their choice was reasonable, and the recurrence of polling day has helped to familiarise them with a process which to many of them was entirely novel. Recent as the present system of government in the provinces is, it is now clear that provincial legislatures constituted in large part by the methods of direct election by constituencies composed of qualified voters have come to stay; and, if there is to be any recasting of these legislative bodies, the question whether their maximum life should not be extended is ripe for decision. It is significant that, apart from the two cases above quoted, there has been, so far as we know, no instance in which the Governor has exercised his power to dissolve—i.e., the existing maximum has not been found longer than practical convenience required. The eight legislatures which came into existence in 1920-1 have kept step, with practically contemporaneous general elections in 1923 and 1926. If their maximum life is extended to five years, it is probable that this coincidence will not continue indefinitely. A power of premature dissolution in the hands of the Governor is an instrument which may sometimes assist to get over an awkward obstacle. Each of these provinces is a great state with its own

problems and difficulties and the course of public events will be different in each. We have shown in the previous chapter why we hope to see a unitary Government evolved in each province, pursuing a policy for which the members of that Government take joint responsibility. The results of a general election will afford guidance to the Governor in the selections he makes to constitute the provincial Cabinet, but when it is constituted it is of the first importance that it should have a sense of security and the prospect of sufficient time not only to frame and carry its measures, but to allow the effect of them to become known and appreciated. If an earlier dissolution becomes necessary or desirable, there is always the means of bringing it about. But greater latitude is needed and we think the three years of the Statute should be extended to five.

Size of Provincial Councils.

68. The next question to be considered is the size of the legislative councils. We have seen several of these bodies in session and have been impressed both with the dignity and the business-like conduct of their proceedings. It would be exceedingly inconvenient for various reasons, including accommodation, if their numbers were enlarged to an extravagant extent. But we are definitely of opinion that, generally speaking, their present numbers are too small. In another part of this Report, we have given some illustrations of the huge areas for which a member of a legislative council may be responsible.† Contact between the member and his constituency, in the sense in which this is understood in Britain or in some other countries of the West, must be quite impossible. If representative institutions of the present model are to have a fair chance of becoming by adoption the political practice of India, the voter must see more of his member and the member must keep in closer touch with his constituency than is now the case in many parts of India. Moreover, we anticipate that both the amount and the importance of the work to be done by provincial legislators will increase. If it is suggested that more citizens cannot be found who are qualified and prepared to discharge the duty of M.L.C.s, we would reply that such a contention would seriously reflect upon the readiness of the provinces for a larger measure of self-government. But we hope it is not so, and with some increase in the size of the legislative councils, the work of the individual member ought really to gain both in value and in interest. There are two further reasons which support the view we have expressed. There must be at any rate some extension of the present limited franchise, and this means that the total number of voters will grow. Unless an increase in the size of the electorate is accompanied by an increase in the number of constituencies the reality of representation may be still further prejudiced. Our second reason is that, as will appear when we deal with the Central Legislature, we have come definitely to the conclusion that

† *See* Vol. I, paras. 205-6, and the note at the end of the table of contents of this volume as to the correct interpretation of the table in para 205 of the first volume.

the Legislative Assembly should be constituted by the method of indirect election, as was suggested in the Montagu-Chelmsford Report, and proposed by the Franchise Committee. The electors in a province would be the members of the legislative council, but the persons they choose will not necessarily be members of that body, though they must be qualified voters on the electoral roll for the province. What we propose is that the members of the provincial councils should choose representatives sent up from the provinces to the Centre by the method of proportional representation—a mode of choice which is quite familiar to provincial councils and which is already used by them for selecting certain committees and so forth. We do not intend further to develop our proposals for reconstituting the Central Legislature in this part of our Report, but we mention it because an increase in the number of provincial members, though recommended on other grounds, will be found to facilitate the working of the plan to which we refer.

We cannot be expected, here and now, to indicate for each province to what precise figure the present membership of its legislative council should be enlarged; if the general proposition of enlargement commends itself to those who have ultimately to decide, the exact total in each case would be arrived at in working out the scheme, either by agreement after consulting the provincial Government or, if need be, by appointing a body specially for this and other cognate purposes, as was done twelve years ago. But the sort of scale we have in mind ought to be indicated. In the previous chapter we have urged the importance of taking up without delay the question of what re-adjustments in provincial boundaries are required, and we should hope that the general result of any redistribution which is decided upon will be to reduce the average size of the Governors' provinces. We, however, must deal with things as they are, and it is impossible to provide for the existing provinces legislatures fit for the work which they have to do without a material enlargement of their numbers. An immediate increase, in the case of the more important provinces, to a figure of between 200 and 250 might be sufficient for the present, and we are satisfied that, having regard to the vast size of the areas to be represented and to other considerations which we have mentioned, at least some such expansion would, on merits, be desirable. It may well be, however, that a greater enlargement than this will ultimately be found expedient, unless the average size of the present provinces is reduced. But it is necessary to proceed with caution. As for further revision of numbers hereafter, we shall later on propose that it should be within the competence of a legislative council, after the lapse of an interval such as ten years, to revise this along with certain other parts of its constitutional structure, though special safeguards would have to be provided, and will be suggested, to protect minorities against the possibility of a majority making an unfair use of such powers of revision.

Separate Representation.

69. We now come to the highly controversial and most important subject of communal representation. When we went to India, we approached this subject as it would naturally be approached by most men of British blood and tradition who take satisfaction in the widespread sense of common citizenship which prevails in our own land. Nothing is more important for a wise judgment on this matter than that all members of Parliament, whether familiar with Indian conditions or not, should appreciate and give due weight to the special considerations involved, which have no counterpart whatever within the experience of Britain. On the one hand, communal representation—the provision by law that a particular religious community shall be represented in a popular legislature solely by members of its own body, with a guarantee as to how many communal seats there shall be—is an undoubted obstacle in the way of the growth of a sense of common citizenship. It is open to all the objections formulated in the Montagu-Chelmsford Report. We have already quoted that indictment.* Communal electorates, the authors of the Joint Report declared, perpetuate class distinction and stereotype existing relations; and they constitute a very serious hindrance to the development of the self-governing principle. If it be a prejudice to hold these views, we admit that we share them. The conclusion which we have reached has not been arrived at without allowing fully for these considerations and studying diligently alternative courses. On the other hand, we are now faced, as the authors of the Montagu-Chelmsford Report were faced, by the indisputable fact that the Muhammadan community as a whole is not prepared to give up communal representation and would regard its abolition, without the assent of that community, not only as the withdrawal of a security which it prizes but as a cancelling of assurances upon which it has relied. Whatever view may be taken of the Muhammadan objection, the fact itself cannot be disputed, and it is one of the greatest possible gravity for all who are engaged in considering the constitutional future of British India. Objections from this quarter, more than anything else, accentuated division over the Nehru Report, and this in spite of the very ingenious and persuasive analysis which that Report contained of the distribution of religious opinion in Bengal and the Punjab. It is this same difficulty which has time and again undermined the efforts that have been made to secure Hindu-Moslem unity, and which profoundly influences the attitude taken up by those Muhammadan leaders who have gone furthest in their effort to co-operate with Hindu opinion.

It is necessary, therefore, to review the controversy in some detail, and to examine afresh some of the main contentions on either side. We would again direct attention to the Note on the

* Vol. I, para. 149.

History of Separate Muhammadan Representation which we have printed as an Appendix at the end of Part II of our first volume,* as well as to chapters in that volume on the religious communities of India† and on the existing arrangements for Muhammadan representation.‡ We propose in the following paragraph to summarise some expressions of opinion which have come before us on the subject.

Summary of Views on Communal Representation.

70. No provincial Government has proposed the abolition of separate electorates for Muhammadans, although several agreed with the view that they are theoretically objectionable. The Bombay Government, which goes furthest in this direction and specifically states that separate communal electorates are not acceptable to it, only advocates their abolition if the consent of both parties can be obtained. In Bengal, the Hindu Member of Council dissociated himself from the views of the rest of the Government and recommended joint electorates with reservation of seats. In the Punjab also, the Sikh and Hindu Ministers expressed themselves against the retention of separate communal electorates.

As regards the allocation of seats between Hindus and Muhammadans, provincial Governments either do not propose to interfere with the *status quo* or only suggest minor modifications. The Bengal Government forms an exception. Its memorandum, with two dissentients (one European and one Hindu), proposes that the representation of Moslems should be on the basis of their population ratio. The Sikh Minister in the Punjab considers that, if communal representation is retained, it should be on the basis of voting strength.

All the Provincial Committees (except the Burma Committee, which is not concerned) recommend either unanimously or by a majority the retention of separate electorates for Muhammadans, though (except for the Moslem members) most of them do so with obvious reluctance, taking the view that they should be abolished as soon as the Muhammadan community is ready to agree to this course. Two Hindu members of the Bombay Committee, two of the Punjab Committee, and one of the Bihar and Orissa Committee dissent from the majority view, and recommend joint electorates with reservation of seats.

Most of the Provincial Committees do not propose any alteration of the existing proportions in which seats are allocated between Hindus and Muhammadans; but the Bengal Committee would allot seats on the population basis, the Punjab Committee would allow weightage to the Hindu and Sikh minorities to such an extent as will not convert the Muhammadan majority (if reckoned on the population basis) into a

* Vol. I, p. 183, Appendix V.
† Vol. I, Part I, ch. 3.
‡ Vol. I, Part II, ch. 4.

minority, and the Bihar and Orissa Committee (except the Moslem members) would only set aside Muhammadan seats, to be filled through the separate electorates, in proportion to the population ratio, though they would allow Muhammadans also to contest seats in other general electorates.

A majority of the members of the Indian Central Committee take a different view from that of the Provincial Committees and follow, in the main, the recommendations of the Nehru Report on this question. They propose that joint electorates should be introduced, with reserved seats for Muhammadans (except in the Punjab and Bengal), allocated either on the population basis or in proportion to voting strength, whichever is the more favourable, and they would give Muhammadans the right to contest seats in other general electorates. They would apply the same principle to the minority Hindu and Sikh communities in the Punjab*. The majority of the Indian Central Committee do not think that in Bengal either community needs any special protection, and they recommend joint electorates without any reservation of seats.

One member of the Committee, who puts forward very similar views, is nevertheless prepared to allow separate electorates to continue for five years.

Two of the Muhammadan members of the Committee strongly dissent from their colleagues and endorse the recommendation of the All-India Muslim Conference which met at Delhi in January, 1929, to the effect that separate electorates should everywhere be retained, seats being allocated on the present basis in provinces in which Muhammadans are in a minority, and on the population basis in those in which they are in a majority.

The European member of the Committee recommends that separate electorates should be retained until the minority community is willing to see them abolished.

All the Muhammadan bodies which appeared before us agreed in demanding the retention of separate electorates. Though a few spoke of the possibility of this system disappearing eventually, none of them were ready to set any time limit or formulate any explicit conditions under which this would become possible. There were some minor variations of opinion on the subject of the number of seats to be filled by Muhammadans, but there was general agreement with the view, endorsed at the All-India Muslim Conference of January, 1929, which we have just described. As far as we have been able to ascertain, the recommendations of this conference, which, of

* It may be pointed out that the formula for fixing the proportion of seats reserved for a community on the basis of population or of voting strength "whichever is more favourable" cannot well be applied in an area, such as the Punjab, where two out of three main communities are both in a minority. One of them might choose the first alternative, and the other the second, with the result that the majority community suffers a double deduction from its proportionate share.

course, covered a wide range and were not confined to the question under consideration at the moment, have now found very wide acceptance among the Muhammadans in India. The minority of their leaders who were formerly prepared to take a less uncompromising view on the subject of communal representation have recently moved nearer to the majority. We have thought it well therefore to reproduce in an appendix at the end of this chapter the text of the resolutions of 1st January, 1929.*

Moderate Hindus, as can be seen from the views expressed by Provincial Committees, are often ready to agree that Muhammadans must not be deprived against their will of separate electorates; but they share (with hardly a dissentient) the view of their co-religionists (who press for the immediate disappearance of this form of representation) that the proper system to adopt is that of joint electorates, with reservation of seats, as long as the need for any such protection is insisted on. There can be no doubt that political Hinduism as a whole is strongly opposed to any separate representation of Moslem interests which goes beyond this point. Most of those who take this view would calculate on the basis of population the number of seats to be reserved.

The Absence of Agreement.

71. It is evident, therefore, that communal representation is a very thorny question, and one as to which there cannot be said to be anything approaching agreement in India to-day. When the Montagu-Chelmsford Report was written, its authors, in dealing with this subject, were a good deal influenced and helped by the fact that the Lucknow Pact† had been recently arrived at and could still be regarded as embodying a compromise which carried the assent of the leading representatives of both communities. The Joint Authors referred to the Pact as a strong reason for the general view they expressed.‡ We have no such guidance, for it is manifest from the facts and opinions which we have set out in the previous paragraph that the Lucknow compromise is no longer admitted to hold the field. Yet the subject of communal representation is pre-eminently one which the rival communities should settle amongst themselves. It may well be that the Conference which is to be held in London after the publication of our Report will furnish a new opportunity for reaching a settlement between them on this subject, and we most earnestly hope that the opportunity will not be lost. These two great communities, living side by side in India, each of which has so important a part to play in the constitutional development of their common country, can, as it seems to us, make the biggest contribution to that end by reaching an accommodation on this issue. We must now

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* Appendix VII, p. 84 below.

† See Vol. I, p. 187, para. 8.

‡ M/C. Report, para. 231.

set out, for the consideration of the problem hereafter, the result of our own reflections, and we hope they may be of some service in reaching a solution which is fair to both sides.

Communal Representation to be Continued.

72. In the absence of a new agreement between Hindus and Muhammadans, we are unanimous in holding that communal representation for the Muhammadans of a province must be continued, and that Muhammadan voters could not be deprived of this special protection until a substantial majority of Muhammadan representatives in the provincial legislature declared themselves in favour of the change. We shall have something to say in a later paragraph as to the conditions to be satisfied before the change could be made. The first and immediate point is that it cannot be made now, without doing such violence to Muhammadan sentiment as could not be justified either on grounds of policy or on grounds of equity.

It remains to be considered what form the continuance of communal representation might take, because separate communal electorates are not the only method which has been suggested or discussed. The reservation of seats in a joint electorate is, no doubt, a form of communal representation; indeed, it is the form of protection for special interests provided in the present constitution for Mahrattas in the Bombay Presidency and for non-Brahmins in Madras, though in these instances the special protection has been secured by interests which are not in a minority. But the objection taken by Muhammadans to this variant is extremely strong. They contend (and we are bound to say that we feel there is great force in the contention) that, if the only provision for their protection is that a seat in a multiple-member constituency is reserved for a member of their community, the member who will be returned to fill it may well turn out to be a Moslem who is more concerned to keep the favour of the non-Moslem majority of voters than to represent Muhammadan interests. We well understand the claim made that communal feeling might be reduced by making both Hindu and Muhammadan members rely upon the support of a mixed electorate. The argument is that under such a system the candidate of extreme and intolerant views would not be likely to be chosen, at any rate where he was the candidate for a minority community. It does not follow that intolerance would always be a handicap to a candidate belonging to the *majority* community. But, if a Moslem candidate, in an area where Moslems are in a minority, had to solicit the support of Hindus as well as Muhammadans, he would have to consider the feelings, and allow for the reasonable claims, of the community to which he did not belong; and by this means, it is argued, the strain of communal antipathy is relaxed and a sense of common citizenship is encouraged. We should be entirely in favour of a practical plan which would help to bring about these desirable consequences, but it is impossible to shut

one's eyes to the force of the argument that the mere reservation of seats, in order to secure a guaranteed amount of representation for the Moslem minority, is far from securing the return to the legislatures of Moslems who would be regarded by their co-religionists as authoritative and satisfactory representatives.

The Suggestion of "Primaries."

73. Is there any other form of electoral arrangement which, while going some way to focus Hindu and Muhammadan opinion upon political problems common to both, yet would guarantee that Moslem legislators were regarded as satisfactory representatives by their own community? One method which has been suggested for consideration, not only for the Muhammadan case but for other communities of large size who find themselves in a minority, is that minority electors, voting by themselves in suitable groups, should first select a list of approved candidates, from amongst whom the seats reserved for that minority would be finally filled by the vote of a joint electorate. Under such a plan, the minority voters, as part of the joint electorate, would also have the opportunity of influencing the choice of members to fill non-reserved seats, with the consequences that—

(1) majority members would depend for their return to some extent on minority votes, and

(2) the minority community would not be strictly limited to the representation guaranteed by reserved seats, but would have an opporunity of putting forward additional candidates for open seats also. It is one of the undoubted disadvantages of separate communal electorates that, while this system is one way of securing a minimum representation for the protected community, it makes it practically certain that the minimum will also be a maximum.

There are serious arguments which might be put forward both in favour of and against this method. We think it should be further considered by both the communities chiefly concerned to see if it provides a basis of agreement, especially as such a plan was more than once mentioned during the visits of the Commission to India, although we found that it had not been very closely analysed. A possible form which such a scheme might take is therefore set out in a short appendix to this chapter* together with a statement of some of the main considerations which would have to be weighed in further considering it.

Another Suggestion: Proportional Representation.

74. Another suggestion for dealing with the difficulty of securing to the minority voter adequate representation of his views in the provincial councils may be briefly disposed of.

* See Appendix VIII, "Outline of a Scheme for combining Joint Electorates with the exclusion of candidates unacceptable to a minority community." page 86 below.

The Joint Select Committee on the Bill of 1919 observed that the system of proportional representation "may be found to be particularly applicable to the circumstances of India" and recommended that the suggestion should be fully explored. We have no doubt whatever that the ordinary elector in an ordinary Indian constituency could not in present circumstances be expected to work the system or to appreciate its result. On this and other grounds we dismiss the suggestion as impracticable.

The use of the single transferable vote is well understood in the legislatures of British India, for it is frequently employed, as we have explained elsewhere, in the selection of committees and produces satisfactory results without delay or difficulty. But it is quite unknown to the Indian electorate, and would appear to be particularly difficult to apply when so large a part of the electorate cannot read or write, and could not be expected to express the order of its choice by the use of numerals. On the other hand, in the Bombay Presidency, there are two-member and three-member constituencies where a voter is at liberty either to use all his votes for one candidate, or to distribute them among more than one. This system has worked without difficulty. There is, however, another objection which seems to us overwhelming against the use of the machinery of proportional representation in provincial elections. Such a system necessarily involves the consequence that a single constituency must be represented by several members, and, having regard to the sub-divisions of Indian political opinion and interest, the number would have to be considerable. Even with single-member constituencies, the area of each seems to us often to approach an unmanageable size. The reservation of seats, without the added complication of a transferable vote, in itself implies a multiple-member constituency, and this alone means that an electoral area is inconveniently enlarged. But the case would be much worse if the principle of proportional representation, as it is ordinarily understood, were adopted in this connection. In its proper place the machinery of proportional representation will, we believe, fulfil a most important function in the working of the Indian representative system. Later on, we are going to propose the use of this method by the provincial legislatures themselves in connection with the composition of the Central Legislature. But to invite the general electorate of India, in its present stage of education and experience, to use it in huge and unwieldy constituencies is an entirely different matter, and we have no hesitation in advising against such a course.

In Absence of Agreement, Separate Muhammadan Electorates to Continue.

75. We regret that an accommodation between the Moslems and the Hindus has not yet been reached. The considerations mentioned in paragraph 231 of the Montagu-Chelmsford Report

still hold. If an agreed solution is not forthcoming, there remains "a very serious hindrance to the self-governing principle." But no third party, however friendly and disinterested, can do what the two communities might co-operate in doing for themselves by mutual agreement. In the absence of such agreement, we are compelled to assume, in reference to this matter, a continuance of separate communal electorates.

Sikh Representation.

76. So long as Muhammadans claim and receive separate electorates in the provinces, it is impossible to deny to the Sikhs in the Punjab similar treatment, if this is what they desire. This was recognised in the Montagu-Chelmsford Report.* The Sikh community at present holds a number of seats in the Punjab Legislature which is mid-way between the proportion that corresponds to its population and the figure which would represent its voting strength.† If some lowering of the franchise now takes place, it may be that these two proportions will tend more nearly to coincide, but the figures will need to be more accurately worked out. The Sikh deputation which presented the claims of the community before us at Lahore urged an increase to 30 per cent. in the proportion of seats reserved for Sikhs. Other communities, each pressing its own case, put forward contentions which would lead to the contrary result. Here again, the best solution is of course one which is reached by conference and agreement. But in the absence of such an accommodation, we must express our own view to the effect that Sikh representation certainly cannot be reduced, though it would seem to us impossible to concede so large a percentage as 30 per cent. without injustice to the other communities of the province. If the Sikhs were prepared to exchange separate electorates for the reservation of seats, this would confer the advantage that Sikh candidates might have a prospect of securing additional seats, over and above those specially reserved for them. If the existing method of representation is maintained, it seems to us reasonable to give the Sikhs some weightage in their favour, especially as the community's representation at the Centre must depend on the influence they can exert in a single province. A share of representation not less than they at present receive out of the seats filled from Indian "general" constituencies would, in all the circumstances, seem to us to be just.

We postpone to a later paragraph‡ the description of the proportion of seats in the various provinces to be earmarked for Muhammadans.

Non-Brahmins in Madras and Mahrattas in Bombay.

77. We have in paragraph 150 of our first volume described the protection given to non-Brahmins in Madras, and to "Marathas

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* M/C. Report, Para. 232.

† Vol. I, Pt. II, Ch. 4, para. 149.

‡ See para. 85 below.

and allied castes " in Bombay, by the reservation of a certain number of seats for them in plural non-Muhammadan constituencies, in spite of the fact that they were not minority communities. The fears of the non-Brahmins in the Madra Presidency that they would otherwise be unable to hold thei own against the Brahmins proved to be groundless. Nor Brahmins were returned in large numbers, and in no sing instance at any of the three elections did a non-Brahmin secu his seat only because it was "reserved." It is clear, therefc that there is no need to continue to reserve seats for n Brahmins in the Madras Presidency.

In the case of the Mahrattas the necessity for reservation not been very clearly either proved or disproved. Mahrattas h often been successful without having to take advantage of t fact that the seat was reserved, but on the other hand have nearl as frequently secured their seat only because it was reserved. On the whole we incline to the opinion that the time has not yet come for the abolition of " reserved " seats for Mahrattas; but conditions vary considerably in the different constituencies in which such reserved seats now exist, and it may well be that it would be suitable to abandon reservation in some of them, though not in others.

Representation of the Depressed Classes.

78. We now come to another exceedingly important and difficult question—the representation of the Depressed Classes. Up to the present the method adopted has been that of nomination in accordance with electoral rules made for each province. Except in the case of Madras, the nomination is intended to secure representation of " classes which in the opinion of the Governor are Depressed Classes "—four members are so nominated in the Central Provinces, two in Bombay and in Bihar and Orissa, and one each in Bengal and the United Provinces. There is no depressed class representative in the Punjab or the Assam Legislature. The Governor-General has exercised his rights of nomination to secure one representative of the depressed classes in the Legislative Assembly. In Madras there are ten members who are nominated to represent nine specified communities which are regarded as depressed. Individuals belonging to the depressed classes are not, of course, debarred from voting in a " general non-Muhammadan " constituency if they are qualified to be electors, but the minimum property qualification is enjoyed by a very small proportion of them. In Madras it is estimated that there are about 56,800 depressed class electors out of a total of 1,270,000 non-Muhammadan voters, or out of a total of 1,365,000 voters in all general constituencies, viz., 4.5 per cent. or 4.1 per cent. respectively. Yet the depressed classes form about 17 per cent. of the non-Muhammadan population of the province, or 15½ per cent. of the total population. In

Bombay, a rough estimate of 15,600 depressed class voters has been put forward out of a total of 759,000 voters in all the general constituencies, viz., 2 per cent., whereas the total population ratio is about 8 per cent. In no other province has it been possible to get an estimate of the number of the depressed classes who are qualified to vote. It is clear that even with a considerable lowering of the franchise—which would no doubt increase the proportion of depressed class voters—there would be no hope of the depressed classes getting their own representatives elected in general constituencies without special provision being made to secure it. In the long run the progress of the depressed classes, so far as it can be secured by the exercise by them of political influence, will depend on their getting a position of sufficient importance for other elements to seek their support and to consider their needs. Ultimately we should hope to see them maintaining their ground in joint electorates without special protection. They will make no headway, however, in this direction as long as they are represented solely by nomination, for nomination provides no opportunities for training them in politics. There are, even with the present restricted franchise, a sufficient number of depressed class voters to make methods of election possible, at all events in many areas, and, as we have already indicated, we think some extension of the franchise should take place.

Should they have Separate Electorates?

79. Our object, therefore, is to make a beginning which will bring the depressed classes within the circle of elected representation. How is this to be done? Most of the depressed class associations which appeared before us favoured separate electorates, with seats allocated on the basis of population, though one or two still wished to retain nomination. Separate electorates would no doubt be the safest method of securing the return of an adequate number of persons who enjoy the confidence of the depressed classes; but we are averse from stereotyping the differences between the depressed classes and the remainder of the Hindus by such a step, which we consider would introduce a new and serious bar to their ultimate political amalgamation with others. Such a course would be all the more difficult to justify in those provinces where the breaking down of barriers has advanced furthest. If separate electorates have to be maintained for certain classes which have already secured them, that is no reason for bringing other cases within this mode of treatment, if it can be avoided. A separate electorate for depressed classes means, as a preliminary, a precise definition of all who are covered by the term, and the boundary would be in some cases difficult to draw. It means stigmatising each individual voter in the list, and militates against the process which is already beginning, and which needs to be in every way encouraged—that of helping those who are depressed to rise in the social and economic scale.

Reserved Seats for Depressed Classes.

80. Our proposal, therefore, is that in all the eight provinces there should be some reservation of seats for the depressed classes. These seats would, of course, be reserved in non-Muhammadan constituencies. This method will entail a definition of the conditions to be fulfilled by a depressed class candidate, but there will be no differentiation between depressed class voters and other non-Muhammadan voters. In view of the possibility of a member of the depressed classes being put forward as a mere nominee of the higher castes, it will be necessary to devise some means for securing that candidates for these reserved seats are genuinely representative of their order. There are associations representing the depressed classes in, at any rate, some of the provinces, and we think that rules might be made providing that the Governor, after consultation with such associations or otherwise, as he thinks best, should certify which candidates are authorised to stand for the depressed class seats. Anxieties are expressed in some quarters that, at first, sufficient candidates may not be found in the ranks of the depressed classes themselves, qualified by education and experience to represent them in the provincial legislatures. If this difficulty does arise, we believe it will only be temporary; and to guard against it, we would confer upon the Governor the further power, provided he is satisfied that this is really the case, of authorising persons, whether men or women, who are not themselves members of the depressed classes but who have shown special interest in their welfare, to be amongst the approved candidates, or, alternatively, of nominating them for certain of the reserved seats. But, since the difficulty to be overcome is in any case likely to pass away, this further power in the Governor should exist for only ten years and only in respect of half of the reserved seats as a maximum.

As we have already said, this method of reserving seats for depressed class representatives avoids a further difficulty which must arise if a separate electorate were constituted. For a separate electorate necessarily means that each voter, before he is put on the list, is first ascertained to be a member of the depressed classes and, in view of the vagueness of the term and the differences which exist in different places, this would involve in some cases a troublesome investigation. Moreover, we believe that it is in the interests of the depressed classes themselves to avoid so absolute a segregation.

The result of our scheme would be that spokesmen of the depressed classes would be returned as elected members in each of the provinces, and those whom they represent would no longer have to rely merely on nomination. On the other hand, the representatives would be the choice of non-Muhammadan electors as a whole, and opportunity would be given for co-operation, while at the same time a strong impetus would be afforded to the more adequate consideration of depressed class

problems. As to the number of seats to be reserved, this should obviously bear some proportion to the total number of the depressed classes in the province. We have set out in paragraph 58 of our first volume an estimate of their numbers, but we have added a warning that in some of the provinces, where the problem of the depressed classes is perhaps less acute, the estimate is decidedly speculative. It will plainly be necessary, after the main principles of the new system of representation have been settled, to entrust to some specially appointed body (like the former Franchise Committee) the task of drawing up fresh electoral rules to carry these principles into effect, and one of the tasks of such a body will be to frame for each province a definition of " depressed classes " (which may well vary, sometimes even between parts of the same province), and to determine their numbers as so defined. We think it unlikely that the figures at which they arrive for Madras, Bombay, and the Central Provinces will differ widely from the estimates we have given, but in Bengal and the United Provinces it may well be otherwise. We propose that, when the definitions are settled and the correct totals ascertained, the number of seats to be reserved for depressed class candidates in the non-Muhammadan constituencies should be settled on the following principle. The proportion of the number of such reserved seats to the total number of seats in all the Indian general constituencies should be three-quarters of the proportion of the depressed class population to the total population of the electoral area of the province.

It will be seen therefore that we do not recommend allocating seats to the depressed classes on the basis of their full population ratio. The scale of reserved representation suggested will secure a substantial increase in the number of M.L.C.s drawn from the depressed classes. The poverty and want of education which so widely prevail amongst them make it extremely doubtful whether a larger number of adequately equipped members could be at once provided, and it is far better that they should be represented by qualified spokesmen rather than by a larger number of ineffectives who are only too likely to be subservient to higher castes. The re-distribution of seats which is now being attempted among different kinds of representatives cannot be permanent, and provision must be made for its revision. But we think that our proposal is adequate for the present, especially as the representation of opinion by reservation of seats does not exclude the possibility of the capture of other seats not so reserved. In the case of the depressed classes, this may seem at present a rather distant prospect. But with the lowering of the franchise, and the improvement in status which better representation will help to secure, we do not regard it as impossible in times to come.

We will next deal with the representation of other minorities, viz., Europeans, Anglo-Indians, and Indian Christians; and also with the number of Muhammadan seats.

European Representation.

81. As to European representation, this must continue to be secured by means of separate electorates. The numbers of Europeans in India are no fair measure of the contribution they make to the country, or of the influence which they exert. One of the best features of the operation of the Reforms is the way in which European business men of high standing and experience have contributed to the public life of the country by their membership of the legislatures. At present the European representation in the provincial councils arises partly from separate European constituencies, and partly from the choice of Europeans by certain trading organisations. Broadly speaking, we think that, with the possible exception of a slight increase in Bombay, the present proportions should be maintained both as regards the ratio of the number of European general constituency seats to Indian general constituency seats and as regards the ratio of the special commerce and industry and other similar seats (not all of which are European) to the general constituency seats.† It is clear that it will not be easy in the enlarged councils to find a sufficient number of suitable European business representatives able to devote their time to the work of the legislatures. But we attach great importance to every effort being made, not only to secure the increased number, but to maintain the high standard of representation so far achieved.

European Element in the Present Councils.

82. Before leaving the subject of European representation,† we will provide a table which shows how many of the total number of seats in the eight provincial councils are now held by Europeans. Some of these European members, of course, are returned by "general" European constituencies, with which we have just been dealing; a few are nominated to represent special interests, such as the cotton trade in the Bombay Council; others are returned by special constituencies, such as those framed for European commerce, or for the planters of Assam; and the balance represents the European element among the official members. The figures deserve careful examination since we are proposing the abolition of the official bloc. The table is given on the next page.

Anglo-Indian Representation.

83. As for Anglo-Indians, we should much prefer to see the choice made by election rather than by nomination, and the general level of literacy prevailing in this community is such that even where its members are few and scattered, the use of the post should make the method of election still possible. In so far as election is the course adopted, it seems inevitable that separate electorates must be formed; the numbers of the community are too small to make any other method feasible.

† See also para. 88 below.

Number of Seats held by Europeans in the Provincial Legislative Councils (excluding the Burma Council).

Province.	Total number of seats in the Council.	Europeans returned by general European constituencies.	Europeans nominated to represent special interests.	Europeans returned by special constituencies (commerce, etc.).	Nominated European officials + European Executive Councillors (i.e. "offical bloc" Europeans).	Total number of Europeans.
(1)	(2)	(3)	(4)	(5)	(6)	(7)
Madras	132	1	—	4	6+2	13
Bombay	114	2	1	4	13+2	22
Bengal	140	5	—	10	10+2	27
United Provinces ...	123	1	—	2	13+1	17
Punjab	94	—	1	1	11+1	14
Bihar and Orissa ...	103	1	2	2	13+1	19
Central Provinces ...	73	—	1	1	5+1	8
Assam	53	—	2	5	4+1	12
Total 8 provinces (excluding Burma).	832	10	7	29	75+11	132
Proportion of total seats held by Europeans; average for the 8 provinces.	—	1·2%	·8%	3·5%	9·0%+1·3%	15·9%

Note.—The figures in columns (4), (5) and (6) of this table and therefore also those in column (7) vary slightly from time to time.

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As regards the number of Anglo-Indian seats, it should be borne in mind that the object in view is to secure to the community an adequate opportunity of making its views known in the legislature through suitable representatives; no question arises of trying to allocate seats on the basis of such factors as population and political influence. At present, there are two Anglo-Indian members in Bengal, and one in each of the other provinces, except Assam (where the community has no seat) and the Central Provinces (where a seat is filled by nomination from among Europeans and Anglo-Indians). We think that it would be not unreasonable to raise the number of seats in Madras and Bombay to two each, but that elsewhere the existing number is suitable. We consider, however, that in the Central Provinces, Anglo-Indians and Europeans should each have a separate seat instead of sharing one between them. In Assam, the number of Anglo-Indians is too small to justify their separate representation in the council of that province; any of them residing there will vote in the non-Muhammadan constituencies as at present.

Indian Christian Representation.

84. The Indian Christian community provides another instance where there is a strong desire to be represented by election rather than by nomination, but where the numbers, at any rate in some provinces, make it difficult to suggest a practicable means. At present, Indian Christians have separate electorates in Madras, and return five members; everywhere else, any representation they have is by nomination. We were struck by the willingness expressed by a representative deputation of Indian Christians which met us in Delhi to contemplate being merged in general electorates for the sake of promoting a sense of common citizenship if others would do the like. In Madras, Indian Christian deputations asked for the retention of their separate electorates. We should in any case much prefer reservation of seats for Indian Christians to separate electorates, and we hope that when details come to be worked out this may be found to be possible. The device of reserved seats ceases to be workable in a case where the protected community would constitute an exceedingly small fraction of any manageable constituency, but it seems to us that the system would be feasible in Madras, and possibly in certain other areas where the Indian Christian population, though small, is more or less concentrated. As regards the number of seats to be filled by Indian Christians, the present proportion appears to us to be justified in the case of Madras and should be maintained. The single seat allotted elsewhere to Indian Christians might, we think, at least be doubled, in view of the increased size of the councils, and a seat added in the Central Provinces, and also in Assam, where at present there are none.

Number of Muhammadan Seats.

85. We now take up the question of the proportion of seats in the various provincial councils to be set aside for Muhammadan members.

The Lucknow Pact, as we have already pointed out, included an agreement between Hindus and Moslems as to the proportion of Indian elected seats allotted in each province to the Muhammadan community, and its terms have been followed closely in the allocation of Muhammadan seats in the existing provincial legislatures. The Pact is no longer accepted by either side as offering a fair basis of representation and the rival contentions now put forward are indicated in paragraph 70 above. It is very much to be hoped that a renewed effort will be made between the two communities themselves to arrive at a fresh accommodation; but in the absence of agreement, a decision will have to be reached by others, on the assumption that separate electorates remain. Our own opinion is that in view of the existing position and of the weakness of the Moslem minority in six out of the eight* provinces, the present scale of weightage in favour of Muhammadans in those provinces might properly be retained. Thus, the proportion to be allotted to them of seats filled from the " general " constituencies (other than the European general constituencies) would be determined as at present. But a claim has been put forward for a guarantee of Muhammadan representation which goes further than this—see paragraph 70 above and Appendix VII at the end of this chapter. This claim goes to the length of seeking to preserve the full security for representation now provided for Moslems in these six provinces and at the same time to enlarge in Bengal and the Punjab the present proportion of seats secured to the community by separate electorates to figures proportionate to their ratio of population. This would give Muhammadans a fixed and unalterable majority of the " general constituency " seats in both provinces. We cannot go so far. The continuance of the present scale of weightage in the six provinces could not—in the absence of a new general agreement between the communities—equitably be combined with so great a departure from the existing allocation in Bengal and the Punjab.

It would be unfair that Muhammadans should retain the very considerable weightage they now enjoy in the six provinces, and that there should at the same time be imposed, in face of Hindu and Sikh opposition, a definite Moslem majority in the Punjab and in Bengal unalterable by any appeal to the electorate. On the other hand, if by agreement separate electorates in Bengal were abandoned, so that each community in that province was left to secure such seats as it could gain by appeal to a combined electorate, we should not on that account seek to deprive the Moslem community of its existing weightage in the six

* Burma is not in question.

provinces where they are in a minority. In the same way in the Punjab, if Moslems, Sikhs, and Hindus were prepared to seek election through a joint electorate covering all three communities, here again we should still be prepared to see this combined with the preservation of the present numerical proportion secured to the Muhammadans by separate electorates in the six other provinces.

We make this last suggestion, which really involves giving the Moslem community the advantage of a choice between two courses to follow, because we sincerely desire to see all practicable means attempted for reducing the extent of separate electorates and for giving the other system a practical trial.

Official Bloc Not to be Retained.

86. Before dealing with other classes of representation, we will now discuss the official bloc. No part of the constitution set up by the Reforms has, in actual operation, departed so widely from the intentions expressed in the Joint Report. The expectation was that official members of the legislative councils would abstain from voting on subjects which were transferred to the control of Ministers, and that, except on rare occasions, they would have freedom of speech and vote.* In fact, the official bloc has been constantly used to support both sides of the provincial Governments; Ministers have relied upon it to maintain them in office when the majority of elected members was voting against them, and it has constantly happened in some provinces that necessary supply and important legislation have been passed only with the help of these official votes. The table in paragraph 146 of our earlier volume indicates the size of the official bloc; excluding Executive Councillors, the figure is highest in Bombay and the United Provinces (15 in each); it amounts to 13 in the Punjab and in Bihar and Orissa; 12 in Bengal, and so on.

It must not, of course, be assumed that, if the official bloc is abolished, the result will be nothing more than the loss of this number of votes to support the provincial Government. On the contrary, the opinion is widely held, and was expressed to us in many quarters, that the presence of the official bloc encourages elected members to take a course which they would hesitate to adopt if it was not present to save the Ministry. However this may be, it appears to us that, if real responsibility is to be fostered in the unitary provincial Governments which we propose, they must shoulder this responsibility without such aid. The argument that the official bloc destroys a sense of responsibility in the legislatures and prevents the formation of more stable parties is one which receives a good deal of support from the Memoranda of several provincial Governments, and from the Reports of most of the Provincial Committees. The

* M/C. Report, para. 233.

Governments of Madras, Bombay, Assam, Bihar and Orissa, and the Punjab are definitely opposed to a continuance of the present system. The main ground advanced is that reliance on the vote of the official bloc weakens the tie between Ministers and the legislature, and that, though the official bloc may have afforded to the former a support without which they might often have been defeated, it is this reliance on official votes which has antagonised the legislatures. The Governments of Bengal, the United Provinces, and Burma do not take so strong a view, though none of them wishes the existing system to continue without modification. A view adverse to the present official bloc is also widely reflected in the Reports of the Provincial Committees.

We feel bound to take the same view, at any rate so far as the presence of supernumerary officials with a right to vote in the provincial councils is concerned.

But we think the new Statute should provide for the presence of a limited number of officials, or other experts, for purposes of explanation, when matters of which they have special knowledge or experience are under discussion in any committee of the chamber. We are not in favour of special help being provided by this means on the floor of the House, for it seems to us essential, if responsible government in the provinces is ever to become a reality, that the Ministry should maintain itself in the division lobby and in debate without these extraneous aids.

The officers through whom the administration is carried on are put in a false position if they can be represented as an alien force interposed in order to nullify the views of an elected majority, and the principle which we have laid down in the preceding chapter applies here, viz., that Ministers ought to face their own responsibilities and call upon the legislatures to face theirs. It is only by eliminating the official bloc as an element in the calculation of voting strength that this position can be reached.

University Representation.

87. We have now dealt with the "general" constituencies, with non-Muhammadans and Muhammadans (paras 69-73, 75 and 85), Sikhs (para. 76), depressed classes (paras. 78-80), Europeans (paras. 81-2), Anglo-Indians (para. 83) and Indian Christians (para. 84). We will next deal with the question of the continuance of university representation.

As to this, we incline to the opinion, though with considerable hesitation, that university seats should be preserved. But, if this is done, the number of seats should not be increased. Ultimately, such a question will come to be settled by the exercise of revising powers for the provincial constitution, for which under proper safeguards we intend to provide. But in the meantime the situation should remain as it is.

Next comes the question of special representation of labour and commercial interests. The present provincial legislatures contain members who are separately chosen or nominated for these purposes.

Special Representation of Commerce, Planting, etc.

88. So far as European commerce is concerned, its representatives in effect form part of the European group in the councils, and we have already pointed out the value of the contribution made from this source to the practical experience at the service of the legislature. Not less important and equally justified is the representation of Indian commerce and industry. We think this class of representation should be maintained approximately in its present proportions, and what we have said applies generally to seats earmarked for mining, planting, and trading associations. In Assam, where there is no European seat apart from those allotted to planters, there seems ground for making some addition to the quota, in view of the extremely large and important part which the tea-industry plays in the life of the province.

Representation of Labour.

89. We have made careful inquiries with a view to making adequate arrangements for the representation of labour employed in large-scale industry in various parts of India, but no ready-made solution is available. Mr. Whitley's Commission* will doubtless throw more light on a very obscure problem. Our own investigations go to show that even where a registered trade union exists in India, its executive is not in most cases so closely representative of the workmen for whom it speaks as would be the case in Britain. Moreover, Indian labour is not for the most part organised for purposes of collective protection and in many places no effective machinery for selecting a spokesman exists. We have been much interested to learn of an experiment recently undertaken in adding to the municipal Corporation of Bombay four councillors chosen by an "electoral college" of delegates who are elected by the members of registered trade unions. The number of delegates elected by each union is proportional to the strength of the union. Only those who reside in Bombay City and have been members of a registered trade union for six months may vote, and candidates for the post of delegate, as well as candidates for the councillorship, must be on the list of voters. Only one election, in which several registered trade unions did not participate, has so far taken place under this scheme. It is at present too early to draw any conclusions from this experiment; but it is doubtful whether it will succeed in securing the selection of men who are genuine representatives of labour.

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* The Royal Commission on Labour in India, under the chairmanship of the Right Hon. J. H. Whitley.

The best suggestion we can make is that in every province the Governor should have the duty of drawing up rules for securing, by the means which in existing circumstances are the best available, labour representation. If the Governor finds that for the present he must still resort to nomination, he should consider whether there are suitable labour organisations which he might consult before making his choice. Ultimately, the solution of the whole problem will be found in a much greater lowering of the franchise than is practicable at present, and, when this stage is reached, special representation will, we trust, become unnecessary. But in the meantime there is no alternative, and we attach much importance to the greatest care being taken and the utmost effort made to secure as special representatives of labour men who really have the confidence of their fellows and have shared their experiences. If suitable members are available, we should like to see the proportions of labour representation not only maintained but increased.

One of our number (Major Attlee) considers that there should be no special representation for particular interests whether commercial or labour. He thinks that the former should obtain adequate representation through the general constituencies and believes that the introduction of adult suffrage in certain specific areas such as the Presidency towns and other industrial areas is already practicable and would enable the wage earners to influence through their votes the return of members favourable to their interests. Instead of preserving special seats for European commerce, planting and mining interests, he would suitably increase the number of seats representing Europeans generally.

Special Representation for Great Landholders.

90. The Montagu-Chelmsford Report, when making suggestions in paragraph 232 for special electorates, observed—

> "Where the great landowners form a distinct class in any province we think that there will be a case for giving them an electorate of their own".

This proposal was in confirmation of the view expressed by the Joint Authors in an earlier paragraph (para. 147) which we transcribe here :—

> "The natural and acknowledged leaders in country areas are the landed aristocracy. They generally represent ancient and well-born families, and their estates are often the result of conquest or grants from some mediaeval monarch. By position, influence and education, they are fitted to take a leading part in public affairs. Some of them are beginning to do so ; and our aim must be to call many more of them out into the political lists. They are conservative like the ryot, but like him they also will learn the need to move with changing times. They also, when they perceive that the protection of interests which are dear to them depends upon doing so, will find out how to organize, and to argue and to make speeches. It will be no very easy task for them. They stand upon a conception of social order which is not easily reconcilable with the hustings and the ballot box. But undoubtedly they are called to take their place in the new régime, and to recognise that political

life need not impair their dignity and self-respect. Like the representatives of their class in other countries, they must learn to fulfil the responsibilities of their position in a new way. After all, they start with considerable advantages, inasmuch as they have command both of means and position. We must give them a special measure of representation, if they need it, at the outset; but it may be that their political education like the ryot's will come mainly by pressure of events."

The final words of this passage indicate that it was not contemplated that the special representation of great landowners would necessarily continue, but it was felt that, to begin with, it must be provided for, and that the necessity of continuing it would later come under review.

The Franchise Committee, in paragraph 21 of its Report, described how it proposed to carry the recommendation of the Joint Authors into practice. Lord Southborough and his colleagues wrote—

"Where we have found a genuine landed aristocracy forming a distinct class, of which the taluqdars of Oudh form perhaps the most conspicuous example, we have had no hesitation in maintaining the privilege now held by them of special representation in the legislative councils through electorates composed of their own class. Thus, in addition to the taluqdars of Oudh, we have recommended special representation to the zamindars of Bengal, Madras and Bihar and Orissa, the sardars of Gujarat and the Deccan and the jagirdars of Sind (in the Bombay presidency). It may justifiably be claimed that in each case these constitute a special class, with clearly defined interests distinguishable from those of the smaller landholders. We have at the same time continued the special representation enjoyed by a class of somewhat different but still clearly defined status, namely, the large landholders of Madras, Agra, the Central Provinces, and Assam, and have further, pursuant to the policy of guaranteeing adequate representation to landholding interests, acceded to the strong recommendation of the Punjab government for the grant of special seats to the larger landholders in the Punjab, a privilege which they do not at present enjoy. The qualifications of electors will in each case be residence in the constituency and a high payment of land revenue or local rates; though we have, in addition, maintained as a qualification the possession by landholders of certain high titles conferred or recognised by government."

We entirely agree with the view expressed in the Montagu-Chelmsford Report that, in the circumstances of India, these large landowners represent an element and supply an influence which ought not to be omitted from the provincial councils, but the table which follows will show what has happened in this respect. There are 32 seats specially reserved in the provincial councils for representatives elected by these great landholders. The electoral qualification is decidedly high, and the number of qualified electors is small.* Yet, members of this small and special electorate not only fill the 32 seats specially reserved for them, but have further secured election in approximately 108 general constituencies. It must be clearly understoood (as appears from the last column of the table) that these 108 are not merely owners of land but are possessed of the special qualifications which give them a vote in the "landholder" constituencies. If an estimate of the number of M.L.Cs. who are landowners be made, the total would be much larger.

* See Vol. I, para. 215.

Landholders in Provincial Legislative Councils.

Province.	Total Number of Elected Members of Legislative Council.	Number of special "land-holder" seats.	Number of persons qualified for the special "landholder" constituencies, but elected to the present Council by *general* constituencies.	Estimated number of members of present Council who are landlords or land-owners (term not precisely defined).
Bombay	86	3	16	58
Punjab	71	4	24	53
United Provinces ...	100	6	22	45
Bihar and Orissa ...	76	5	10	27
Assam	39	Nil.	(probably five would be qualified for special constituencies, if there were any.)*	10*
Bengal	114	5	17*	47 (and possibly more.)*
Burma	80	Nil.	(probably six would be qualified for special constituencies if there were any.)	8
Madras	98	6	5	38 (but probably nearly all except Europeans own some land.)
Central Provinces (including Berar).	55	3	14	20
Total... ...	719 (or 600 excluding Burma and Assam.)	32	108 (excluding Burma and Assam.)	306

It thus appears that, while special provision has been made to secure that the great landholders should not be excluded from the councils or swamped by the larger number of voters of another class, they have in fact succeeded in being returned for four times as many seats as were specially reserved for them. The only possible conclusion from these figures is that their high standing and reputation, and the influence which they exert in their own localities, are such that it has not really been necessary to give them special protection. It may, however, be said that in view of the widening of the franchise which we propose, their chance of being returned in adequate numbers by general constituencies would be substantially reduced. It may be so. Prophecy on such a subject is easy, and knowledge is impossible. As we have said, we should think it a misfortune if the provincial legislatures did not include within their membership an adequate number of the great landowners, and we therefore propose the following arrangement.

* These figures relate to the third Assam and Bengal Legislative Councils, and not to the present (fourth) Councils in those two provinces.

We think that the special protection now furnished under this head may safely be withdrawn, but that, if candidates of this class are not found to be returned to a provincial council in a proportion as great as that now guaranteed to them, the Governor should have a discretion to add by nomination further members of this class, so long as the total of such elected and nominated members taken together does not exceed the proportion of the whole council now guaranteed to them. The position of the greater landholders, referred to in the Montagu-Chelmsford Report, will thus be reasonably secured.

Women Members.

91. Already, in seven provinces out of nine, it is possible for women to be members of the councils, and in more than one province nomination has been used to add a woman member, though, as far as we know, no woman candidate has ever been elected. In the chapter which follows we are going to propose that women's suffrage should be a cardinal part of the franchise system, and to suggest qualifications for the vote which will not confine it to the few women who have property qualifications. Here we are concerned with women members, and not with women voters, and we consider it to be highly desirable to facilitate the inclusion of women in the provincial councils. One way of doing this, which has been urged upon us from some quarters, would be to provide by statute or by statutory rule that a certain number of seats in each council *must* be held by women. We are opposed to such a mode of treating the question. In the first place, though the suggestion is easy to make, it would be very difficult to carry out, for its adoption would involve many supplementary provisions, to decide, for example, in what communities or in what circumstances the suggested principle should be applied. But, apart from this, we do not think it is in the real interests of Indian women, or of the progress of representative institutions in India, to secure the inclusion of women members by such a method. While we think the contribution which women members can make to the work of provincial legislatures will be valuable (instances to this effect can be quoted), their admission to the council ought to depend on the vote of a constituency composed of electors of both sexes. It is equally impracticable and, we consider, undesirable to propose that a certain number of seats should be "reserved" for women, if by a reserved seat is meant a seat filled by election, for such a seat can only be reserved in a multiple-member constituency, under a provision that whatever may be the order of preference indicated by the result of the poll, one seat must be filled by the woman who gets more votes than any other woman candidate. But how is it possible to decide which are to be the constituencies selected as areas specially required to return a woman member? For this and other reasons we conclude that the proper course is to leave to women candidates a

fair field and no favour. We would refer to our chapter in Volume I of this Report on "The Women of India"* for an account of the remarkable and encouraging progress which has been made in recent years in bringing women's questions to the front, and of the increasing influence exerted by the leaders of the women's movement. We are hopeful that under the new conditions women candidates will be elected—it may be at first only one or two, but very soon the numbers will grow—and we are confident that this will be greatly to the advantage of the legislatures, the constituencies and India as a whole. The only provision which we think should be made to encourage and supplement the presence of women in the provincial legislatures, is to provide by statutory rule or otherwise that the Governor, in exercising certain powers of nomination which we propose in the next paragraph to confer upon him, should have special regard to the extent to which women have been returned as members from general constituencies, with a view to supplementing their number if he thinks this should be done.

Nominated Members.

92. The table given in paragraph 146 of our first volume shows the extent to which the existing provincial councils contain an element provided not by election but by the Governor's powers of nomination, and more detailed information on the subject is provided in Appendix III (Vol. I, page 144). The proposals set out in the earlier paragraphs of this chapter include the substitution of election for nomination as the principal means for securing representatives in several instances which at present are particularly provided for by nomination. In paragraph 80 we have proposed the reservation of a certain number of seats for the depressed classes. These will, we hope, be filled by election, but we have proposed that power should be conferred upon a Governor, in respect of not more than half of the seats so reserved, to select the holders by way of nomination if he is satisfied that the use of the method of election would not work effectively. This power would continue for the next ten years, after which we should hope that the choice of depressed class members to fill these reserved seats could be everywhere effected by election.

In paragraph 83, in dealing with Anglo-Indian representation, we have recommended that the seats allotted to this community should be filled by election rather than by nomination, but here again, if this course were found to be impracticable, we would propose that the allotted places should be filled by the Governor's nomination. The same principle applies to seats for Indian Christians (paragraph 84).

In all these three cases, though it remains uncertain whether the method of nomination will have to be used, the total number

* Vol. 1, Part I, Ch. 7.

of seats to be filled will be fixed, so there is no question of providing the Governor, in respect of these three matters, with any more general discretion. A different situation, however, arises in reference to the contingent use of a power of nomination which we have proposed to put in the Governor's hands, in the event of the withdrawal of the protection provided by special "landholder" seats resulting in a failure to maintain the proportion of such "landholders" secured by the present constitution. We have already said* that we think the Governor should have discretion, in this event, by nomination to add certain members of this class, but so, in any event, as not to exceed the proportion at present guaranteed. Over and above these special cases, we think there should be a strictly limited power placed in the hands of the Governor of adding members by nomination. The limits within which this power may be exercised should be small, for it is of the essence of our general plan that the provincial legislatures should be predominantly elected bodies. Moreover, we do not intend that the existing provision should continue, according to which there are a fixed number of seats which must be filled by such nomination. Whether the Governor exercises this supplementary power or not will be entirely within his discretion. We think that the extent of this supplementary nomination should be limited to some figure not less than 5 per cent. and not more than 10 per cent. of the total fixed seats. We have already indicated in paragraphs 89 and 91 that this power should be regarded as placed in the Governor's hands more particularly for the purpose of ensuring a more adequate representation of women and of labour, if he thinks this is required.

Ministerial Members.

93. Members of the Governor's Cabinet will also be members of the provincial council. In so far as these Ministers are chosen from elected members of legislative councils, they will simply retain their seats, as provincial Ministers do at present. Any other members of the provincial Cabinet, whether Indian or British and whether drawn from official or non-official ranks, will become ministerial members of the council in virtue of their position in the Executive. It will therefore become unnecessary to retain the rule that a Minister who is not already a member of the Council must secure election to it within six months. In fact, the word "Minister" will take on a wider sense: all members of the Governor's Cabinet will be known by that description.

Constitutional Revision.

94. Before dealing with the extension of the franchise, we propose to add here some suggestions as to the revision, in the future, of certain parts of the provincial constitutional structure.

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* Para. 90.

At present, the provincial legislatures have practically no power to amend their own constitution. An exception is the right conferred on them by electoral rules to adopt women's suffrage, and this right has now been exercised in all the provinces. But the redistribution of constituencies, the revision of the franchise, the re-arrangement of the methods of election, and the alteration of the size of the councils, are quite outside their power. While it is manifest that these things could not be put at the mercy of the vote of the majority, we think it is highly desirable to increase, under proper safeguards, the functions of the provincial legislatures so that they may become, within a certain range, bodies which can modify their exact structure. Most of the legislatures in the British Empire have this quality. They are not only "legislative" bodies, but are also "constituent" bodies. Unless some latitude is provided so that, within a given framework, adjustments are possible, there has to be constant investigation by some outside authority to ascertain whether modifications are asked for and are desirable in themselves, or else the legislative machine has to go on working under the handicap of faults of structure which experience makes manifest. Most of the matters with which we have been dealing—communal representation, whether by separate electorates or by reservation of seats, the method of election, and the like—will, as we conceive, be dealt with in electoral rules. The time may come when a change of attitude may arise, indicating an increased degree of confidence between citizens of different communities, and the question of amending the electoral rules will then be ripe for consideration. Such amendment could not be brought about by the will of the majority, so long as the protected minority remains strongly adverse. On the other hand, existing arrangements ought not to be maintained at the dictation of a mere handful, when it is established that in the minority community as a whole the prevailing opinion is in favour of abandoning special protection.

Amendment by Constitutional Resolution.

95. We propose therefore that after a lapse of ten years it should be within the power of a provincial legislature to carry a "Constitutional Resolution" providing for either (*a*) changes in the number, distribution or boundaries of constituencies, or in the number of members returned by them, (*b*) changes in the franchise or in the method of election, or (*c*) changes in the method of representation of particular communities. If the Resolution is one the enforcement of which is calculated to prejudice the rights of any community in respect of its existing communal or separate representation, the Resolution would have no effect unless it was supported both by two-thirds of the votes of the legislature and (as part of this majority) by two-thirds of the members representing the community affected. The Governor would decide whether this condition is satisfied. If a "Constitutional Resolution" were passed with this amount of support,

it would be transmitted to the Governor. If the Governor was prepared to certify that this Resolution in his opinion reflected the general opinion of the province and of any community specially affected, his Government would prepare a scheme for transmission to the Governor-General, with a view to the decision being taken as to the framing of new electoral rules embodying the changes proposed. We think it is necessary to leave the ultimate decisions in the hands we have named. We contemplate, and intend, that the normal course to be followed, when the technical considerations have been provided for, would be the carrying out of a duly certified Constitutional Resolution, and thus the provincial legislature would be able to exercise an influence over, and express the course of public opinion upon, the electoral arrangements prevailing from time to time in the province.

Legislative Powers.

96. The ordinary legislative powers of the revised councils will be extensive, for they will cover, as at present, the making of any law "for the peace and good government of the province," with only such restrictions (effected by the requirement of the previous sanction of the Governor-General) as are necessary in the case of Bills which obviously encroach upon the central sphere. We strongly desire to see maintained the provisions of the existing Act which secure in practice a proper distribution of legislative topics between the central and the provincial legislatures; these provisions avoid opening the way to challenge as to the validity of an enactment which has received the Governor-General's assent, and prevent the flood of litigation which might ensue from a more rigid distribution of legislative power. (See Volume I, Part II, Ch. 3, para. 143, for an account of these ingenious and effective provisions). On this, and on other grounds, we think the requirement of the further assent of the Governor-General to provincial Bills should continue. The Governor's powers in relation to assent to Bills, and to their reservation or return to the Council, will remain as at present. If there is acceptance of our general scheme for future constitutional arrangements in Governors' provinces, there will, of course, have to be an overhauling and readjustment of rules made under the Act on many points, as well as amendment of the Statute itself. These are technical and expert matters as to which we make no attempt at exhaustive treatment. It seems probable that, as before, a specially constituted drafting body may have to be called into being.

The difficult question of discriminatory legislation is dealt with in the chapter on the Central Legislature* and need not be separately discussed here.

* See below, Part IV, Ch. 1, paras. 156/7.

Governor's Powers in relation to Legislation.

97. We have provided in the previous chapter for the reservation of special executive powers in the hands of the Governor to be used in case of need for the due discharge of his responsibilities in respect of certain vital matters.* A corresponding power must remain with him in the field of legislation, and section 72E of the Act should be reframed accordingly. There are several places in the Act, and many places in rules made under the Act, where the abolition of dyarchy and the substitution of the schemes we have outlined for the provinces, and are about to describe for the Centre, will call for adjustments of details apart altogether from the main alterations involved. These adjustments can only be dealt with after the broad outlines of the amended structure have been approved. The principle to be applied will be that the Governor's power of securing the passage of rejected Bills by certification will extend over the same field as is covered by his over-riding powers to control executive action. These have been indicated under five heads in the preceding chapter.

Governor's Powers in relation to Finance.

98. As regards finance, the distinction between non-voted and voted heads will continue. The former will, as now, be authorised by the decision of the provincial Government. As regards the latter, we must now indicate rather more precisely the extent to which we contemplate that the Governor's powers over provincial finance would continue unimpaired. This subject is dealt with in the present Government of India Act in section 72D (2)† Manifestly, the disappearance of the distinction between reserved and transferred subjects makes a difference. Here again, the principle which we would see applied is that the power of restoring rejected grants would extend to all cases which correspond to the range of the Governor's over-riding powers in the field of executive action. This power of restoration should rest in the hands of the Governor himself, and the extent to which he will use it will be within his discretion, subject of course to the superintendence, direction and control of the Governor-General.

So far, we are dealing in this paragraph with what we have previously described as the normal constitutional system in the Governors' provinces, and we consider that proviso (*b*) in section 72D (2)†, insofar as it is wider than the powers just mentioned, will have no place in the normal system. But it is of the essence of our scheme that, alike in the executive, the legislative, and the financial sphere, there should remain in reserve adequate powers to be employed in the event of the normal constitution failing to function, for example, through the impossibility of forming or maintaining in office any Ministry which would enjoy sufficient support from the provincial legislature. It is

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* Para. 50. † See Vol. I, para. 155.

this situation to which we referred in paragraph 65 above, and, should it unfortunately arise, the powers of the Governor would become enlarged and he would be authorised to restore rejected demands for grants, and to certify legislation even outside the limits which we have previously indicated if, in his opinion, this course was essential for the interests of the province. Certification of Bills and restoration of demands assume that the legislature is meeting as a deliberative body, and is prepared to pass judgment on proposals put before it. It is possible to conceive a state of emergency arising in which, owing to the refusal of the legislature to meet or otherwise, these conditions would not be fulfilled; and while we are prepared to see the great extension in provincial self-government which we have sketched introduced, and trust that full advantage will be taken of the opportunity, there is no question but that the new Statute must contain a provision to meet this possible eventuality. Consequently, in this extreme case, the Governor must have at least the full financial powers contained in proviso (*b*) of section 72D (2),*, and a power of legislation by ordinance over the whole provincial field.

Provincial Self-Government.

99. These emergency provisions, as we have pointed out elsewhere, are no repudiation of the principle of self-government; they cannot come into play unless the opportunity for self-government is itself repudiated. Apart from them, we claim that we have put forward for consideration suggestions for a provincial constitution in which the provincial Cabinet will be answerable to the legislature over the whole provincial field, and the legislature will be constituted by the choice of an enlarged electorate. There is no other means by which the next step may be taken in pursuit of the objective defined in the Preamble; some may think that the advance we propose is more than prudent statesmanship would commend; but we put our plan forward in the hope that, after the close examination to which it will be subjected, it may be found to be approved and justified.

APPENDIX VII.

Resolution of the All-India Muslim Conference, Delhi, 1st January, 1929.

"Whereas, in view of India's vast extent and its ethnological, linguistic, administrative and geographical or territorial divisions, the only form of Government suitable to Indian conditions is a federal system with complete autonomy and residuary powers vested in the constituent States, the Central Government having control only of such matters of common interest as may be specifically entrusted to it by the Constitution;

"And whereas it is essential that no Bill, resolution, motion or amendment regarding inter-communal matters be moved, discussed or passed by any legislature, central or provincial, if a three-fourth majority of the members of

* See Vol. I, para. 155.

either the Hindu or the Muslim community affected thereby in that legislature oppose the introduction, discussion or passing of such Bill, resolution, motion or amendment;

"And whereas the right of Moslems to elect their representatives on the various Indian Legislatures through separate electorates is now the law of the land and Muslims cannot be deprived of that right without their consent;

"And whereas in the conditions existing at present in India and so long as those conditions continue to exist, representation in various Legislatures and other statutory self-governing bodies of Muslims through their own separate electorates is essential in order to bring into existence a really representative democratic Government;

"And whereas as long as Musalmans are not satisfied that their rights and interests are adequately safeguarded in the constitution, they will in no way consent to the establishment of joint electorates, whether with or without conditions;

"And whereas, for the purposes aforesaid, it is essential that Musalmans should have their due share in the central and provincial cabinets;

"And whereas it is essential that representation of Musalmans in the various legislatures and other statutory self-governing bodies should be based on a plan whereby the Muslim majority in those provinces where Musalmans constitute a majority of population shall in no way be affected and in the provinces in which Musalmans constitute a minority they shall have a representation in no case less than that enjoyed by them under the existing law;

"And whereas representative Muslim gatherings in all provinces in India have unanimously resolved that with a view to provide adequate safeguards for the protection of Muslim interests in India as a whole, Musalmans should have the right of 33 per cent. representation in the Central Legislature and this Conference entirely endorses that demand;

"And whereas on ethnological, linguistic, geographical and administrative grounds the province of Sindh has no affinity whatever with the rest of the Bombay Presidency and its unconditional constitution into a separate province, possessing its own separate legislative and administrative machinery on the same lines as in other provinces of India is essential in the interests of its people, the Hindu minority in Sindh being given adequate and effective representation in excess of their proportion in the population, as may be given to Musalmans in provinces in which they constitute a minority of population;

"And whereas the introduction of constitutional reforms in the N.-W.F. Province and Baluchistan along such lines as may be adopted in other provinces of India is essential not only in the interests of those provinces but also of the constitutional advance of India as a whole, the Hindu minorities in those provinces being given adequate and effective representation in excess of their proportion in population, as is given to the Muslim community in provinces in which it constitutes a minority of the population;

"And whereas it is essential in the interests of Indian administration that provision should be made in the constitution giving Muslims their adequate share along with other Indians in all services of the State and on all statutory self-governing bodies, having due regard to the requirements of efficiency;

"And whereas, having regard to the political conditions obtaining in India it is essential that the Indian Constitution should embody adequate safeguards for protection and promotion of Muslim education, languages, religion, personal law and Muslim charitable institutions, and for their due share in grants-in-aid;

"And whereas it is essential that the constitution should provide that no change in the Indian constitution shall, after its inauguration, be made by the Central Legislature except with the concurrence of all the States constituting the Indian federation;

"This Conference emphatically declares that no constitution, by whomsoever proposed or devised, will be acceptable to Indian Musalmans unless it conforms with the principles embodied in this resolution."

APPENDIX VIII.

OUTLINE OF A SCHEME FOR COMBINING JOINT ELECTORATES WITH THE EXCLUSION OF CANDIDATES UNACCEPTABLE TO A MINORITY COMMUNITY.

(*Note.—It must be clearly understood that the Commission is not recommending this scheme for adoption, but it thinks that it should be further considered. See paragraph 73 above. Major Attlee, however, is of opinion that the scheme is practicable and meets the reasonable demands of minority communities.*)

The principal argument against the adoption of the method of reservation of seats instead of communal electorates is that the majority community could and would put forward candidates who, although members of the minority community, were actually mere tools in the hands of the majority. The two instances where seats have been reserved in joint electorates, that of the Mahrattas in Bombay and the non-Brahmins in Madras are not strictly in point as in both cases the protected community has a majority of the electors. It may, however, be noted that although the system was adopted in deference to the plea that the higher castes, though in a minority, had such influence that the majority would fail to obtain representation, in fact there has been no suggestion that Mahratta or non-Brahmin candidates who were mere tools of the higher castes have ever been put forward.

The following suggestion has been made to remove this objection to reservation of seats.

When any community which is entitled to reserved seats demands it, multiple-member constituencies would be formed which included the seats reserved. Before the actual election takes place in the constituency, a system of primary elections would come into operation. The electoral rolls of each constituency would show to what community the voter belonged. An election would first be held at which only electors of the particular community would vote. Any person belonging to a minority community who desired to stand for the provincial council would have to be a candidate at his communal primary election. Voters would have as many votes as there were candidates, but could not give more than one vote to any one candidate. Any candidate obtaining a number of votes equal to a certain percentage, say 60, of the number of electors voting would be entitled to go before the general electorate of the constituency. The result would be that any candidate of a minority community elected by the general constituency would have previously been passed by more than half of his communal electors as satisfactory from the communal point of view. Where, as in the case of the depressed classes, the standard of education and intelligence is not sufficiently high to admit of this system, candidates of the community would have to be approved by associations of the community to be recognised by the Governor as bodies representative of the community.

In order to avoid the danger that the majority community might use their votes so as to exclude the more able representation of the minority, provision might have to be made for a proportion of the council to be elected by the council by proportional representation. For its successful working an increase in the number of seats would be needed.

The advantages claimed for the scheme are :—

(1) It would make possible the inclusion in a single electorate of all considerable minorities (Muhammadan, Sikh, Indian Christian and depressed classes), but not European and Anglo-Indian, the members of which are too few and too scattered for the system to be applicable.

(2) The tendency would be for the more violent communalists among the minority candidates to fail of election and this, though to a lesser degree, would operate in the majority community.

(3) Small minorities would be encouraged and enabled to assist each other at the polls.

(4) It would encourage the formation of party tickets composed of members of all parties on political lines and thus mitigate sectionalism.

(5) The fact of partial dependence on voters of another community should have the effect of moderating communal tendencies in the councils.

The disadvantages are :—

(1) It is a novel scheme and no section of Indian opinion has advocated it.

(2) It is clumsy and expensive. The existence of two elections with different purposes and methods would confuse the elector.

(3) The abler candidates of the minority communities might be excluded, (though this argues considerable skill and great control of the voters by party managers).

(4) Reservation of seats involves multiple-member constituencies which, under Indian conditions, would be exceedingly large.

Note.—The position in the Punjab and Bengal, where the two major communities are each predominant in one area and greatly outnumbered in the other, is difficult, but might be met by an equal number of reservations to each community in the areas where they are in a minority.

CHAPTER 3.—THE FRANCHISE.

Difficulties of a " Broad " Franchise.

100. The Montagu-Chelmsford Report laid down the principle* that the franchise should be as broad as possible, consistently with the avoidance of any such inordinate extension as might lead to a breakdown of the electoral machinery through sheer weight of numbers. Lord Southborough's Franchise Committee endeavoured to apply this direction in drawing up its scheme for each province.† Its general proposals were based upon the tests of residence within the constituency and the possession of certain property qualifications, as evidenced by the payment of land revenue, rent or local rates in rural areas, and of municipal rates in urban areas, and of income tax generally. In addition, the Franchise Committee's valuable recommendation to enfranchise all retired and pensioned officers of the Indian Army, whether of commissioned or non-commissioned rank, was adopted, and this military qualification was extended to all retired soldiers.

101. The main considerations by which the Franchise Committee was guided in deciding the minimum property qualification were set out as follows :—

> "The large proportion of illiterate voters may no doubt cause practical difficulty : but the problem is not a new one in India, and a similar problem has already been faced with success in municipal elections by the use of coloured ballot boxes and other like devices. We are satisfied that a considerable amount of non-official assistance from honorary magistrates and other persons of local position will be available to assist the officers of government in working the electoral machinery. We have not thought fit to impose any literacy test, although this course was urged by some witnesses, since this would exclude many electors who are competent to manage their own affairs. Nor have we sought to attain uniformity in the standard of property qualification for the various provinces. We have relied largely upon the local experience of the government witnesses who appeared before us, and have not hesitated to recommend differing qualifications even within the same province where we were satisfied that social and economic differences justified the discrimination. We have, however, proposed the same qualification for all communities within the same area, although this will enfranchise a smaller proportion of Muhammadans than of non-Muhammadans. We consider that this is more desirable than to lower the qualification for a particular community. The qualifications adopted by us will result in enfranchising a substantially higher proportion of the urban than of the rural population, a result which we believe to be justified by the higher standard of wealth and intelligence in the towns."

The Committee estimated that a franchise on the lines indicated in the schedule which it drew up would produce about 5,179,000 electors—less than 2½ per cent. of the total population of the electoral areas. Later, Burma was included, and the franchise was extended to such women as possessed the qualification which would have enfranchised a man. In the result, as

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* M/C. Report para. 226.

† Franchise Committee's Report para. 10.

we have set out in more detail in our first volume,* it is found that (excluding Burma†) about 2.8 per cent. of the population of the areas returning members to the provincial councils were registered as voters at the last general election. The minimum age for the vote is 21, and the census of India shows, broadly speaking, that half of the total population is above 20 years of age, and that above this age the sexes are divided in about equal proportions.

Present Franchise too Limited.

102. The present franchise is too limited in its scope to provide the material from which to build any adequate scheme of representative government. Its only justification is that it was a beginning, and that, in spite of the mandate that a "broad" franchise should be aimed at, illiteracy and the restricted supply of competent persons to conduct the elections compelled the adoption of limits producing this result.

The Joint Select Committee emphasized the importance of recognising that the initial franchise qualifications must be enlarged before greater responsibilities could be conferred. It said of the purpose aimed at in the Government of India Bill:

> "It is to design the first stage in a measured progress towards responsible government. Any such stage, if it is to be a real advance, must, as the Committee conceive it, involve the creation of an electorate, and the bestowal of some share in the work and responsibilities of government on those whom the electorate chooses to represent its interests. In the present circumstances of India, the electorate must at the outset be small and the administrative experience of its representatives must be limited. Before, therefore, the policy of His Majesty's Government can be fulfilled the electorate must grow, and practical experience in the conduct of public affairs must be enlarged. During this period the guardianship of the peace of India cannot be withdrawn from the care of the official agency which Parliament at present charges with the duties of the administration, and the Committee regard it to be an essential feature of the policy of his Majesty's Government that, except in so far as he is released from responsibility by the changes made under this Bill, the Governor-General in Council should remain in undisturbed responsibility to Parliament and fully equipped with the necessary powers to fulfil that responsibility. But from the beginning the people must be given an opportunity, and all political wisdom points to its being a generous opportunity, of learning the actual business of government and of showing, by their conduct of it, to some future Parliament that the time has come for further extensions of power."

Reasons for Extension.

103. We hold that there should now be such extension of the franchise as is reasonably practicable, and that provision should now be made with a view to yet greater extension after a further interval. In our chapter on "the Voter and the Member" in the first volume‡ we have given reasons for thinking that many of the present voters very imperfectly understand,

* Vol. I, Part III, Ch. 1, para, 202.

† In these and other calculations we have excluded Burma because, as we have already indicated, we are proposing the separation of Burma from India.

‡ Vol. I, Part III, Ch. 1.

if they understand at all, the full implications of enfranchisement or the constitutional functions of their representatives, though of course other electors fully appreciate the power and the opportunity conferred on them. But we are disposed to think that those below the line of qualification are in many cases fully as fit for the vote as many who have it, and it is rather as an instrument for political education and as a source of potential political influence than as a means of satisfying a demand for reform that the vote must be regarded in India. In England, the franchise has been extended, stage by stage, in response to vigorous demands from the unenfranchised; in India, there is little evidence as yet of a wish for the vote on the part of the voteless; but none the less the extent to which those who have the vote have used it is really remarkable. It is also to be noted that, if the census figures are an accurate guide, there are substantially more adult literates than voters. As so many of those who vote, vote as illiterates, the inference that there are many, as yet unenfranchised, who are at least equally well qualified to be electors is strong. The manner in which property belonging to a Hindu joint family is held necessarily cuts out many educated Indians from qualifying under the present electoral tests. For example, there must be hundreds of clerks working in business offices in Calcutta and other big cities who have no vote.

Variety of Views held in India.

104. There is much difference of opinion in India as to the practicability of extending the existing franchise, and as to the degree of change which is now desirable, if it is practicable. Four of the eight provincial Governments which have made recommendations unanimously oppose any advance, and the majority of Members of the other four Governments are of the same view. On the other hand, a substantial advance is advocated by the Punjab Government and by two Members in Bengal, and adult suffrage by one non-official Member in Bombay, both Ministers in Assam and one Minister in Bengal. The views of the Provincial Committees are also divided. Most members of the Committees would leave things as they are: of the rest, Dr. Ambedkar, of the Bombay Committee, alone advocates franchise for all of 21 years and over, the Assam Committee proposes a vote for each occupied house, or alternatively a vote for everyone of 25 years of age or over, the Bengal and United Provinces Committees, with the majority of the Punjab Committee, recommend a lowering of qualifications, which might double or treble the electorate, and the Bombay Committee a 50 per cent. increase. It must also be recorded that most of those Indian Members of Governments, Ministers and members of Provincial Committees who advise extensions of the franchise refer specifically or by implication to their effect upon the relative voting power of communities, and appear to be guided more often by what they consider fair to Moslems, untouchables or

other minorities, than by any conviction of the real necessity of advance. Equally, many of those who oppose advance represent privileged classes. It will be seen from the Report of the Indian Central Committee that three of its members are convinced advocates of adult suffrage, and would have it introduced immediately in Bengal in any case, and that three others think the present franchise quite wide enough. But there is general agreement among the members of that Committee that adult suffrage should be attainable in slightly over thirty years. The majority would enforce the attainment of it within this period at the latest, the enfranchisement of intermediate minimum proportions of the adult population by various intermediate dates being prescribed by statute. The minority would make it illegal to reach adult franchise before the end of the period, interim advances in this case being restricted by maximum percentages.

Impossibility of Immediate Adult Suffrage.

105. The Nehru constitution provided for adult suffrage forthwith—which would mean placing over 100 millions of names on the register in place of the 6½ millions now enfranchised. As an ultimate objective, this may be reached, but its immediate adoption appears to be quite impracticable. Apart altogether from the question of whether it would be advisable at once to enfranchise so huge a population, both men and women, most of whom are entirely illiterate, the practical difficulties presented by such a proposal are so great as to appear insuperable. No adequate machinery exists for effectively dealing with such huge numbers. The proper conduct of a general election requires that, apart altogether from the politicians and their helpers, there should be an adequate supply of impartial persons capable of staffing the polling booths. Experience shows that, even with the present restricted franchise, it is necessary to enlist for this purpose nearly all Government servants in the district, and even so elections are in some provinces spread over several days. The work of dealing with a mass of illiterate voters, of course, needs more staff and more skill, and the special arrangements which would be necessary if all women as well as all men had a vote would enormously increase the strain put on the machine.

Further extensions of the franchise beyond what we are now going to propose should, as far as possible, be provided for. For our general principle is to frame such proposals now as will not necessitate further Statutory Commissions to recommend future changes, but will rather encourage the provincial councils (under the power of constitutional revision referred to in paragraph 95) themselves to widen the limits of enfranchisement hereafter.

Our own Proposals for Extension.

106. Our proposal is that a new Franchise Committee, or other suitable body under an impartial and experienced chairman, should be set up with instructions to frame schemes which would

enfranchise about 10 per cent. of the total population. This would more than treble the present number of voters and would make an electorate of about 20 per cent. of the adult population. The Franchise Committee would be directed to consult the provincial Governments before determining what modifications in voting qualifications should be made for this purpose, and would be required, in drawing up its schemes, to have due regard to the respective claims of rural and urban areas, and to the rights of women as well as men. Another instruction to the Franchise Committee would be to devise such qualifications as would secure, as far as possible, the same proportion of voters to population in different communities. What sort of qualifications would best bring about the desired result will be for the future Committee to determine. But we may say at once that we do not think the result should be attained simply by providing different sets of qualifications for voters of different religions or races. The Committee should consider whether it is not practicable and desirable to introduce an additional qualification based on education, independently of property, such, for example, as the attainment of the fifth class before leaving school. This is not the imposition of a test for the vote, but the introduction of another head of qualification. Our Education Committee's Report shows how many pupils drop out before reaching this level, and, if it proved administratively possible to put on the voters' list at the age of 21 those who held a certificate showing that they had reached the standard of the fifth class, this would not only bring in voters of better education without any property test but would provide for an increase in the number of electors in proportion as education expands.

Some Defects of the Present Franchise.

107. The importance of lowering the property qualification, if justice is to be done as between different classes and creeds, may be illustrated by a few examples. Figures before us* for Madras show that in that Presidency, while Muhammadans are 6.7 per cent. of the population, they are 4.7 per cent. of the voters; Indian Christians are 3.2 per cent. of the population, but only 1.8 per cent. of the voters; Depressed Classes are 15.5 per cent. of the population, but only 4.1 per cent. of the voters; while the balance of the population (in effect caste Hindus) are 74.6 per cent. of the population and 89.4 per cent. of the voters. Of course, Muhammadan representation is disproportionately increased in the Councils by weightage in seats. In each case, the explanation of the drop in voting ratio as compared with population ratio is due to the greater poverty of the classes of voter affected. They are more depressed economically than other sections of the community and, therefore, on a given property qualification these classes will secure a lower proportion of votes than others. But with a

* See Vol. I, pp. 146–147 and p. 191.

lowering of the franchise these classes will not only secure more votes in the aggregate, but their voting ratio will more nearly approximate to their population ratio. This is very clearly brought out in the case of the Muhammadans of Bengal. One of the qualifications for a vote for the legislative council is the payment of *chaukidari* tax of not less than two rupees. For electors to Union Boards there is a similar qualification, except that the minimum payment to qualify for a vote is one rupee instead of two. Now, the Muhammadans are 55.3 per cent. of the rural population of Bengal. But in the rolls of rural electors for the legislative council they are only 48.8 per cent.; whereas for Union Boards, where the qualification is halved, Muhammadan voters are 57.7 per cent., which much more nearly corresponds to their population ratio. It is calculated that out of an additional 968,000 voters in rural Bengal brought in by such a lowering of franchise, 608,000 would be Muhammadans. The effect on the depressed classes of lowering the franchise may not be so marked, but in their case too, as the qualification is lowered, their voting ratio will rise. As we are opposed to having different qualifications for different classes in the same province, the importance of lowering the franchise and thus bringing the economically backward in greater numbers within the electoral range is manifest.

Proposed Qualifications for Women Voters.

108. The qualifications for women voters also need reconsideration. We have explained in our first volume† why the enfranchisement of Indian women "on the same terms as men" produces very few women voters indeed. We desire to see a substantial increase in the present ratio of women to men voters. If this is not effected now, the situation will later on be reached when so large a proportion of adult men are on the register, and so few women, that a further extension to bring the number of women voters more nearly to an equality (even if the provincial councils as then constituted proposed it) would necessitate the sudden admission of vast numbers of women with hardly any increase in the number of men. It is far better to proceed gradually and steadily, and a further step in developing women's suffrage in India should be taken now. Some qualification other than the present one is needed, and it is very difficult to suggest the most satisfactory method. It may perhaps be found possible to add to the present qualification two others, viz. (1) being the wife, over 25 years of age, of a man who has a property qualification to vote, and (2) being a widow over that age, whose husband at the time of his death was so qualified. In addition, the educational qualification should apply to women over 21 as well as to men. Many will be disposed to say that Indian wives and widows are so largely uneducated or living in seclusion that their enfranchisement to this extent is premature and extravagant. We do not think so. The beginning of a movement

† Vol. 1, para 203.

among certain Indian women, however comparatively few in number they may yet be, to grapple with problems which specially affect home and health and children is one of the most encouraging signs of Indian progress, and we believe that this movement would be strengthened by increasing the influence of women at elections. Some general idea of the proportion of female to male voters which would probably be attained under the above suggestion may be gathered from the fact, deduced from the census, that married women over 25 are about one-half of the number of men over 21. We limit our proposal to wives and widows of 25 because, on practical grounds, we are anxious to avoid introducing at this stage too heavy a proportion of women in the electorate.

Provision for Subsequent Revision.

109. We recommend that after ten years* the provincial councils should have power, by " constitutional resolution " and under safeguards for minorities, to set in train proposals for extending the franchise, and if education advances and conditions justify the further changes we have in mind, we consider that they should do so. This is a matter as to which the British Parliament cannot remain indifferent. If a new Act of Parliament is to confer powers of self-government on the provincial councils, it should at the same time provide means for securing that these councils will in time rest on wider popular support than they can at present, so that the transferred powers may not remain in the hands of an oligarchy.

If it were practicable to bring about a wider extension of the franchise at the present time, the Statutory Commission would not be content to limit itself to the proposals already outlined, and we wish to make it entirely clear that, as education spreads, we should expect to see the responsibility of the vote conferred on an increasing proportion of the population. We propose, therefore, that after fifteen years a second Franchise Committee should be appointed to review the progress that has been made and the suitability of the electoral qualifications then existing, with particular reference to the educational development of British India, and, if 20 per cent. of the population has not by that time been enfranchised, it should be the duty of this second Franchise Committee to devise means of accelerating the rate of enfranchisement.

Election Expenses and Corrupt Practices.

110. Before passing from the subject of the franchise, we wish to add a word on two matters which are necessarily connected with the conduct of elections, election expenses and corrupt practices. The electoral rules already provide that regulations may be made by the Governor-General in Council fixing

* See para. 95 above.

maximum scales and regulating employment for pay in connection with an election. So far as we know, this power of making regulations has not been exercised, and there may be difficulties in the way of drawing up mandatory restrictions of which we are not fully informed, for the circumstances of different constituencies vary widely, and Indian conditions must be considered. But we are strongly of opinion that suitable limits should be defined and enforced for election outlay. Not only is the absence of them calculated to give an unfair advantage to candidates who can afford to spend freely, but a liberty to pour out money to any extent is an obvious encouragement to corruption. It will of course be appreciated that, though there is no limit to election expenses, money can only be lawfully employed in support of a candidature for purposes regarded as proper. The Indian Elections Offences and Enquiries Act, 1920, provides for the punishment of malpractices in connection with elections, and enacts penalties for bribery, for the exercise of undue influence, for treating, and for making certain other payments which the law regards as illegal. In order that there may be a better opportunity of finding out cases in which these offences are committed, there is added a provision which aims at securing that election accounts should be duly kept. But we are by no means clear that this last provision is adequate for the purpose, and in any case, as long as there is no limit to the amount of permissible expenditure, a check on the purposes of that expenditure must be more difficult to apply. We have no wish to over-emphasize, but we cannot disregard the indications given to us in more provinces than one of the presence and effects of corruption. It may not be more prevalent in India than in some other countries, but it is an evil which calls for more effective provisions to prevent it, and the indications that candidates sometimes spend abnormal sums to secure their return make it injudicious to shut our eyes to the existence, however isolated, of such irregularities.

CHAPTER 4.—THE QUESTION OF SECOND CHAMBERS IN THE PROVINCES.

The Balance of Arguments.

111. On the question whether or not there should be second chambers in the provinces, the Montagu-Chelmsford Report* stated as follows :—

> "We have considered the feasibility of establishing a bicameral system in the provinces. Its advocates urge that in creating upper houses we should follow the system which generally prevails in countries where popular government has firmly established itself. We might also expect that the representation of minority interests would become more effective in an upper house than in a single composite chamber, because minority representatives sitting in a chamber of their own might feel themselves freer to defend the interests which they represented than if they sat together with other elements in a lower house. We might secure men for the upper houses who would not seek election or even accept nomination to a composite assembly, where the majority of members were of a different status from themselves; and so the second chamber might develop a conservative character which would be a valuable check on the possibly too radical proclivities of a lower house. But we see very serious practical objections to the idea. In many provinces it would be impossible to secure a sufficient number of suitable members for two houses. We apprehend also that a second chamber representing mainly landed and moneyed interests might prove too effective a barrier against legislation which affected such interests. Again, the presence of large landed proprietors in the second chamber might have the unfortunate result of discouraging other members of the same class from seeking the votes of the electorate. We think that the delay involved in passing legislation through two houses would make the system far too cumbrous to contemplate for the business of provincial legislation. We have decided for the present therefore against bicameral institutions for the provinces. At the same time we bear in mind that as provincial councils approach more closely to parliamentary forms the need for revising chambers may be the more felt; and we think that the question should be further considered by the periodic commission which we propose hereafter."

The recommendation at the end of this passage was accepted and expressly embodied in section 84A of the Government of

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* M/C Report, para. 258.

India Act, the section which prescribes the appointment of the Statutory Commission. Among the matters to be remitted to it is "the question whether the establishment of second chambers of the local legislatures is or is not desirable."

112. After considering this question with very special care, we have not found it possible to make a unanimous recommendation one way or the other. The considerations set forth in the above quotation are those which appeal to us most, whichever view we hold. Our divergence consists in the different importance we assign to the rival sets of arguments. We have not found any new material during our study of the last ten years' working of the provincial constitutions, nor do the important modifications which we advise should be made in those constitutions appear to us to introduce any fresh considerations from which any decisive deduction can be drawn as to the need of establishing second chambers.

We are agreed that the essential functions which a provincial second chamber, if constituted, should be designed to discharge would be two, first, the review of Bills and, secondly, the endorsing of the Governor's exercise of his special powers. Any further advantages which might follow from the existence of such a body would not be by themselves enough to justify the additional complexity and expense which would certainly be involved.

The reason why the experience of the last ten years gives so little assistance is that in the present provincial constitution political responsibility, if it may be said to exist at all, exists in an indirect and obscured form. It is still a matter of opinion whether the greatly increased powers with which we wish to see the legislatures endowed will or will not induce in them such a sense of responsibility that legislation will be normally secured a fair consideration on its merits and every care taken that no occasion may arise for the exercise of the powers of executive control which we recommend should remain.

Views of the Provincial Governments.

113. It is interesting to note how divided opinion is in this matter among the provincial Governments themselves and among the members of the Committees which sat with us. Five of the provincial Governments state that they are opposed to the establishment of second chambers because the material from which they could be formed does not exist in their provinces. The remaining three provincial Governments which have put forward constitutional proposals take a different view. The United Provinces Government puts forward the argument that the conservative elements in the province have a distinctive character and would welcome the opportunity of service in a separate chamber. The Bombay Government holds that the need of a revising instrument outweighs both the difficulty of

finding the material from which to constitute it and the danger of weakening the lower house in the process. The Bengal Government pronounces unreservedly in favour of a second chamber.

Views of the Committees Associated with us.

114. Among the Provincial Committees, all of which had the Reports of their Governments before them when they formulated their recommendations, the Madras Committee, with one dissentient, has come to the conclusion that the balance of advantage is in favour of a second chamber. The Bengal Committee, again one member dissenting, and the United Provinces' Committee, unanimously, favour a second chamber as likely to prevent antagonism arising between Governor and legislature as a result of frequent resort to the veto. The Assam Committee is in favour of a revisory body, though it proposes to entrust these functions to a council of a rather unusual type. The members of the four remaining Committees are almost evenly divided, those of them who are drawn from minority communities generally being in favour of second chambers.

The Indian Central Committee reviews these opinions, and also notes the verdict of the All Parties Conference, which was in favour of single chambers: but its members are divided in their recommendations. Two members would have no second chambers, one would have them in all the provinces, and six would make an experiment for ten years in the United Provinces alone.

The Positive Proposal of Some of our Members.

115. Those of us who recommend the establishment of second chambers read constitutional history as showing that the consideration of legislation by one house is inadequate, and that a second chamber has been proved to be the best revisory instrument. They do not consider that the Governor's powers of overriding the legislature provide, as is often suggested, an alternative to an upper house. The sphere of the Governor in his individual capacity is mainly executive. The exercise by him of powers of overruling the legislature cannot be regarded as equivalent in value to the decision of a legislative and deliberative body. Another factor of importance is that the disappearance of the official bloc from the lower house and the vesting in the Governor of a discretion which permits him to constitute his Executive Council without even one official member would, unless an alternative place is provided for official experience within the legislature, involve an unwise neglect of an asset on which India has hitherto largely relied. The best place for officials is in an upper house, where, as it will consist largely of nominated members, officials will sit among their peers by virtue of a qualification not less responsible than theirs. In a lower house otherwise wholly or almost wholly

elected they will neither command confidence nor assume dignity; their presence will be generally resented, and they will have no friends, still less a party behind them. Those who hold this view also believe that there are many minorities which will for a long time be more effectively and suitably represented by members nominated to an upper house than by elected representatives sitting in a lower house.

The second chamber proposed would be small, composed of some thirty members of whom half might be nominated by the Governor from among officials and non-officials, and half elected either directly by voters of high qualification or indirectly by members of the lower house by the single transferable vote. The relations between the houses would be the same as those now existing between the two chambers of the Central Legislature.

The Negative Recommendation of the Remainder.

116. Others of us recommend the retention of a single chamber, believing that the principal objections to second chambers which we have quoted from the Montagu-Chelmsford Report —the complexity which they will involve, the deficiency of material and the undue protection of vested interests from legislative interference—make their creation undesirable. Moreover they do not accept the suggestion there made that minority interests might be more effectively represented in an upper house. If minority interests are to receive adequate consideration, they hold that this can only be done by full representation in the chamber which must be the predominant influence in the provincial constitution. If any representation by nomination, whether of officials or non-officials, is held to be essential, they think that a small representation in a single house would be more effective than a larger representation in the upper house, for the essential advantage of the presence of such representatives is their influence on their fellow members. It has generally been proposed in evidence before the Joint Conference to constitute second chambers disproportionately representative of vested interests. They fear that such chambers would be regarded as an undemocratic instrument of government and that ceaseless conflict between the two houses would result. They think that this danger will be a real one, however the second chambers may be formed.

While a second chamber will not be a substitute for the Governor's powers, its existence may be used as an argument for modifying the Governor's powers before this is desirable, and it may support the lower house against the Governor and so increase rather than prevent friction between him and the legislature. So long as Ministers are secure in the support of the lower house, and so obtain the funds which they require, the second chamber can exercise little control on the administrative side, and it is here that the influence of a legislature is most required.

An Expert Revising Body.

117. Whatever view may be taken as to the expediency and possibility of establishing second chambers in the provinces, there is a cognate proposal for securing legislative revision on which we are agreed.

A piece of machinery which has been suggested for our own Parliament might, we think, be found useful as an adjunct to provincial councils. It has been proposed that a small expert body might be constituted to which legislative proposals could be submitted between the report and third reading stages. This body would be required to report on the final drafting of measures and to call attention to any points of conflict with existing legislative or administrative arrangements. It should have no power to deal with matters of principle, but its work might do much to make clear the real effect of proposed legislation and the administrative considerations to which its passage would give rise.

PART III.—THE NORTH-WEST FRONTIER PROVINCE AND OTHER SPECIAL AREAS.

CHAPTER 1.—CHIEF COMMISSIONERS' PROVINCES.

The North-West Frontier Province.

118. The absorbing interest, the peculiar character, and the special military and political difficulties which are associated with the North-West Frontier Province have been fully described in our first volume,* and we have there dwelt upon the question whether any separation of the administration of the tribal area from that of the five administered districts is possible or advisable.

Unified Control Essential.

119. We have come to the conclusion that responsibility for the administration of the North-West Frontier Province cannot be separated from responsibility for the peace of and control over the tribal area. Only thus can the security of the North-West frontier be effectively maintained.

In making this recommendation we are endorsing the view of the North-West Frontier Enquiry Committee which was set up in April, 1922, under the Chairmanship of Sir (then Mr.) Denys Bray to report whether such separation was advisable, and if not, what was the best constitutional development to be recommended for the Province.

This doctrine of inseparability is stated clearly and beyond possibility of successful challenge in paragraphs 12 and 13 (pages 6 and 7) of the Bray Committee's Report. On the main issue it is there pointed out (paragraph 14, page 8) that though they may differ on other frontier questions "all frontier experts, from frontier officer to Lieutenant-Governor and Viceroy, have been unanimous that the frontier tracts and frontier districts form one organic whole which can only be properly managed if both parts are in the hands of one centralising and controlling authority on the frontier itself." The Bray Committee assembles in a striking footnote at the bottom of page 8 of its Report, excerpts from the opinions of various authorities on this point. These include not only expressions of opinion from such distinguished administrators as Sir Alfred Lyall ("It is an established principle from Peshawar to Karachi that the frontier can only be managed properly if both sides of it are in the hands of the same British authority"), and Sir John Maffey ("I do not

* Vol. I, Part IV, Ch. 5.

think there is anybody who has any real experience, official or non-official, who would think it feasible to separate these two component elements "), but also the views of frontier notables, such as Nawab Sir Abdul Qayyum (" Separation is neither advisable nor practicable "), and Wazirzada Mohammed Akram Khan (" Our interests are so common that we can never be separated ").

The conclusion finally reached by the majority of the Bray Committee (i.e., by all except the two Hindu members) and forced on them " by the sheer process of reasoning " is that " in existing conditions, it is not merely inexpedient, for all practicable purposes it is impossible to separate the districts and tracts."*

The N.W.F.P. in Relation to the Defence of India.

120. Later in this volume† we shall have to deal with the grave constitutional issues connected with the composition and functions of the Army in India. It is clear that it is impossible to separate the control of the forces which secure the integrity of India's boundaries from all control of the area which forms the inevitable terrain for military operations in its defence. If, therefore, a constitutional readjustment, such as we are going to suggest, comes about in reference to the Army in India, the N.W.F.P. will be an area specially involved in the new arrangement. The Bray Committee pointed out that " even in the internal administration, the peculiar position of the province, its financial dependence on central revenues, and the close and at times inextricable connection between its internal and external affairs—all these factors combine to call for a wider power of control and a closer supervision by the Governor-General than he exercises over a Governor's Province."‡ That Committee went on to say that the limit of this control and supervision must be defined by others, and disclaimed any intention of formulating the nature of the amendments to be made in the Government of India Act. We entirely share the view of the Bray Committee that provision ought now to be made for the constitutional advance of the N.W.F.P., and we are going to formulate our scheme in some detail. But we also agree that the situation of the province and its intimate relation with the problems of Indian defence are such that special arrangements are required. It is not possible, therefore, to apply to it automatically proposals which may be suited for provincial areas in other parts of India.

The Need for Constitutional Advance.

121. On a review of all these considerations, it follows (1) that steps should be taken without delay to frame and carry into effect proposals for the constitutional advance of the

* Bray Committee's Report, p. 9, para. 16.

† Part V below.

‡ Bray Committee's Report, p. 23, para. 41.

N.W.F.P. by setting up suitable representative institutions, and (2) that broad principles of policy forbid us to recommend the establishment of the same measure of responsible government in the North-West Frontier Province as we have proposed for the Governors' provinces.

There is much force in the claims put forward by witnesses from the N.W.F.P. that the virile inhabitants of this area are not less intelligent than their neighbours, and that their geographical position ought not to deprive them of a share in India's political advance. The proposals which we are going to make endeavour to meet these claims as far as they can be met, but it is not possible to change the plain facts of the situation. The inherent right of a man to smoke a cigarette must necessarily be curtailed if he lives in a powder magazine.

It was represented to us that the demand for the introduction of reforms in the North-West Frontier Province is largely due to a desire by the Muhammadans of India to add to their strength by advancing the constitutional status of a province which contains a majority of their co-religionists. Whether that be so or not, we recognise that the people of the N.W.F.P. have an undoubted right to demand that geographical considerations should not prevent their joining in the general advance of India in such matters as public health, education and agriculture, and that they should have a more effective voice in deciding the destinies of British India as a whole. We therefore recommend that there should be in the North-West Frontier Province a Legislative Council consisting of some 40 persons with powers of legislation, interpellation and discussion of resolutions and with the power of imposing certain taxes and voting supplies in respect of those services which are maintained out of provincial revenues; but executive responsibilities should, as at present, rest with the Chief Commissioner.

Composition and Powers of N.W.F.P. Legislative Council.

122. The Council should consist of an elected and a nominated element in about equal proportions. The former element should be composed of representatives of the Khans elected from a special constituency, of members elected by municipalities and district boards (which as time goes on will acquire a more representative character as the method of composing them by election becomes more general), and of ex-soldiers. These recommendations are in conformity with the view of the majority of the Bray Committee.

The nominated element would be selected by the Chief Commissioner, and would consist partly of officials and partly of non-officials. One of the former would be the Financial Secretary. The latter would be chosen either to give representation to important elements not otherwise provided for,

or to bring to the Council persons of weight and experience. Due provision should be made for the representation of minorities, including Hindus and Sikhs.

The range of subjects in respect of which the N.W.F.P. Council could legislate would be as wide as possible, but obviously would not extend to all provincial subjects. It has been well said that in the North-West Frontier matters apparently local may easily and unexpectedly assume an All-India aspect. For example, Law and Order in this area so closely approaches the character of an All-India subject that the new body could not begin by having power to deal with it. We also think that Land Revenue should be excluded from its purview. We therefore suggest that the most convenient course would be for rules to be made by the Governor-General in Council by means of which the range of legislative power would be fixed. The advantage of this method is that, when experience justified it, the limits could be enlarged, and the Council would therefore enjoy the prospect of the growth of its responsibilities as circumstances warranted.

The Chief Commissioner should preside over the Legislative Council. He should have power to appoint a deputy to take his place in the chair when necessary.

Representation of N.W.F.P. in Central Legislature.

123. In addition to the proposals we are making to establish a local legislature, we consider that the representation of the North-West Frontier Province in the Central Legislature should be confirmed and strengthened, and that its right to take part in discussing All-India questions should stand on the same footing as that of the Governors' provinces. Accordingly, in the next Part of our Report, we shall recommend that the Assembly should include four members from the province (three Muhammadans and one Hindu), and that the Council of State should include a member drawn from the area. It would be more appropriate to leave the question of how these members should be chosen to this later chapter.* It should be noted that up to the present time the province has been represented in the Legislative Assembly by only one member, who is there not by right as representing the province, or in virtue of any express provision of the Government of India Act, but merely in the course of the exercise by the Governor-General of his discretion under the Electoral Rules to nominate additional members to the Assembly.

Financial Relations between the Two Areas.

124. We consider that an examination should be made of the expenditure in the N.W.F.P. with a view to separating those items which are solely concerned with the five districts from those

* Part IV, Ch. 1, para. 144.

which are incidental to the performance by the Chief Commissioner of his functions as Agent in the unadministered tracts and are due to the proximity of those tracts to the five districts.

The division of expenditure in the five districts between ordinary expenditure and the extraordinary expenditure due to the tracts is not to be arrived at merely by considering where the expenditure was incurred, for a substantial part of the expenditure inside the administered area is really occasioned by the circumstance that the unadministered area is adjacent to and immediately associated with the districts. Consequently there would be some items of expenditure inside the five districts, e.g., for roads and bridges, which ought not to be regarded as part of the ordinary local outlay. In addition, the cost of at any rate a part of general administration will have to be divided, since administration is made more expensive by the special character of the province. The salary of the Chief Commissioner himself should be allocated.

We must now consider what will be the financial powers and responsibilities of the N.W.F.P. Legislative Council. Let us assume that the requisite distinction has been drawn, if necessary by the setting up of a suitable tribunal, between the normal expenditure of the five districts and the extraordinary civil expenditure of the area which is due to its geographical and strategic position. The responsibility of the Provincial Council will be limited to the raising of the necessary funds for normal civil expenditure. The powers of local taxation would correspond to the powers possessed in any other province, and the proceeds will be supplemented, as in the case of other provinces, by the quota due to the province from the Provincial Fund which we propose to set up. The Financial Secretary will present to the N.W.F.P. Legislative Council his budget in respect of normal civil expenditure, and the Council will have the opportunity of voting the necessary demands in so far as these fall within the class of votable items. The Chief Commissioner must have powers of restoring rejected grants, and he would exercise this power under the superintendence, direction, and control of the Governor-General. Similarly, and subject to the like supervision, he would have in the field of legislation, power to certify in cases where the Bill is essential for the safety, tranquillity, or interests of the N.W.F.P. or any part thereof.

We have made inquiries as to whether, if a strict allocation was made of expenditure between that part which is normal and that part which is due to special considerations, the province might still expect to find that its normal outlay would exceed its income. The materials before us do not make it possible to arrive at a confident result; but if the province, apart from the special burdens thrown upon it by its geographical position, is found to be a "deficit" province, then a grant-in-aid from central funds would be necessary.

Summary of Proposals for North-West Frontier Province.

125. We do not suggest any change in the present arrangements by which the Chief Commissioner combines in his person the dual responsibility of administering the five districts and acting as Agent for the Governor-General in dealing with the tribal area, nor do we consider that his relation to the Army authorities need be affected.

These recommendations represent an important advance. For the first time the North-West Frontier Province will have its own legislature, containing elected representatives, with powers both of taxation and of voting expenditure; the opportunity of putting questions to the provincial administration, and of moving, discussing and carrying resolutions on public matters affecting the province, will give the N.W.F.P. Legislative Council the means of exerting a very important influence on policy, as well as an opportunity of working representative institutions, of which the area has as yet no experience. Moreover, the Province will now, for the first time, be guaranteed full representation in the Central Legislature, and will have a voice in determining to what extent duties shall be imposed to feed the Provincial Fund, in which the N.W.F.P. no less than the Governors' provinces will share.

Baluchistan and other Minor Provinces.

126. We have carefully considered whether any corresponding constitutional change should be proposed for Baluchistan, and we must refer to what we have written in our first volume about this area.*

In the first place, only a small portion of it is British territory, though the same system of administration extends over a larger area. Moreover, the inhabitants of Baluchistan are in large part nomads and are attached to their characteristic institutions. We have given a full account of the organisation and use of Jirgas in Baluchistan. The customary law and method of government associated with these bodies could not be supplanted without gravely disturbing local sentiment and removing an effective and suitable means of consulting local opinion. We refer more particularly to the Shahi Jirga, which meets twice a year and deals with current questions affecting the whole province by methods which bring into consultation the principal inhabitants. We must repeat here what we have already written—" It may be safely stated that the Baluchis have not themselves sought any alteration of the existing regime. The demand for representative institutions of a western type certainly does not come from them."† Later on, we are proposing that British Baluchistan should have some representation in the Central Legislature, but we are confident that there is no ground for recommending a change at this stage in the government of the province.

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* Vol. I, Part IV, Ch. 5, p. 325.
† Vol. I, Part. IV, Ch. 5, p. 328.

The remaining "minor administrations" may be briefly disposed of. We have described in detail in our first volume the Coorg Legislature,* and there is no ground for changing existing constitutional arrangements. Neither can the form of government in Delhi or Ajmer Merwara be usefully altered. In all these three cases representation in the Central Legislature should be provided.†

* Vol. I, Part IV, Ch. 5, pp. 329-330.
† See below, para. 144.

CHAPTER 2.—THE BACKWARD TRACTS.

127. In our first volume (Part II, Chapter 7) we have described the constitutional position of those extensive and important parts of British India which are known as "Backward Tracts." If Burma is excluded, they are to be found in five of the eight provinces, and the total extent of the backward tracts in these five provinces is no less than 120,000 square miles, containing a population of 11¼ millions. Under the present constitution these backward tracts are administered by the provincial Governments, though the exact arrangements differ in different cases, as we have set out in the chapter to which we have just referred. In most cases the inhabitants of the backward tracts are not included within any constituency and have no vote for election to the provincial legislature. Chota Nagpur, Sambalpur, and the Santal Parganas are exceptions. Out of these three areas nine constituencies have been created, each returning its member to the Legislative Council of Bihar and Orissa. We have already pointed out (paragraph 172 of Volume I) that in only three of these constituencies do aboriginal voters preponderate, and in only two out of these three cases may the member returned be regarded as really representative of their interests. The only other case in which backward tracts are included in provincial constituencies is that of the Agency Tracts in the north of the Madras Presidency; but in this case they form only insignificant portions of the constituencies in question and the influence which can be exerted by their inhabitants is negligible. So far as administration is concerned, the arrangements vary. For example, in the Assam tracts the Governor exercises effective control, although the areas are technically within the authority of Ministers so far as transferred subjects are concerned. In Chota Nagpur, Sambalpur, and the Santal Parganas, Ministers deal with transferred subjects substantially in the same way as they do in the rest of the Province of Bihar and Orissa. In the other tracts all provincial subjects are reserved.

128. The question now arises what arrangements should be made for the backward tracts in connection with the constitutional changes which we are proposing. It may be found that in one or two cases, an area now notified as a backward tract is so advanced that the special treatment of the area need not be continued. To give an example which is not strictly speaking that of a backward tract, the excluded areas of the Central Provinces are now regarded by the provincial Government as fit to be treated like other parts of the province (see Volume I, paragraph 91). A case which will need special consideration, and which is strictly that of a backward tract, is the Darjeeling district (see Volume I, paragraphs 80, 171 and 172); the evidence given before us as to this area was conflicting, and we think it desirable that the question whether it should continue to be in any degree excluded from the normal constitutional

arrangements of Bengal should be further considered in the light of the developments that we propose for the provinces. Another case in which the view presented to us was not unanimous was that of the British portion of the Khasi and Jaintia hills in Assam. But apart from these, or some of these, we have no doubt that there are other tracts which must be excluded from the general constitutional arrangements, and that special provision must be made for their administration. We would suggest, however, that they should be known in future not as "backward tracts" but as "excluded areas." The stage of development reached by the inhabitants of these areas prevents the possibility of applying to them methods of representation adopted elsewhere. They do not ask for self-determination, but for security of land tenure, freedom in the pursuit of their traditional methods of livelihood, and the reasonable exercise of their ancestral customs. Their contentment does not depend so much on rapid political advance as on experienced and sympathetic handling, and on protection from economic subjugation by their neighbours.

129. The responsibility of Parliament for the backward tracts will not be discharged merely by securing to them protection from exploitation and by preventing those outbreaks which have from time to time occurred within their borders. The principal duty of the administration is to educate these peoples to stand on their own feet, and this is a process which has scarcely begun. It is too large a task to be left to the single-handed efforts of missionary societies or of individual officials. Co-ordination of activity and adequate funds are principally required. The typical backward tract is a deficit area, and no provincial legislature is likely to possess either the will or the means to devote special attention to its particular requirements. Expenditure in the tracts does not benefit the areas from which elected representatives are returned. Moreover, the most extensive tracts (if Burma be left out of account) fall within the poorest provinces. Only if responsibility for the backward tracts is entrusted to the Centre, does it appear likely that it will be adequately discharged.

The Constitutional Argument.

130. This view is reinforced by a consideration of the constitutional proposals which we have made for the provinces. Mr. Montagu and Lord Chelmsford thought that the "typically backward" tracts* should be administered by the Governors. But the plan actually adopted was to entrust all the tracts—with the single exception of the Shan States of Burma—to the Governors in Council. So long as dyarchy exists, there is indeed no reason for taking any other course. But, if unitary ministries replace dyarchical executives, the question definitely arises whether such tracts should be included in the area of responsible government or completely removed from its sphere.

* M/C Report, para. 199.

131. As we have said, we have no doubt whatever that for the really backward tracts, such as those of Assam (except perhaps the Khasi and Jaintia hills) the alternative of complete exclusion must be adopted. But we do not propose that they should be placed, like the " minor administrations," entirely outside the borders of the Governors' provinces. This would involve unnecessary expense and would be attended by other disadvantages. Some of the " typically backward " tracts are very small in size; all of them are in administration and development linked with the provinces; though it is very desirable that the officers employed in them should be specially qualified for the work. Thus, though exclusion from the sphere of the provincial Executives involves centralisation—for the Governor-General in Council is the only alternative authority to which they can be entrusted—the Central Government should use the agency of the Governors for their administration. The development of a consistent policy towards these tracts, based on a wide knowledge and experience of their conditions, as well as the provision of funds adequate to implement it, are matters of the greatest importance. Another duty which might usefully be undertaken by the central authority responsible for the backward tracts would be the simplification of the many overlapping enactments which authorise special legislative and administrative procedure within their borders.* By virtue of its control of the All-India services the Government of India would be able to obtain from the provinces officials familiar with local methods and languages. We contemplate that members of the provincial, and possibly of the subordinate services as well, should also be obtained from the provinces, wherever it is expedient that this should be done.

Tracts not Wholly Excluded.

132. But, putting aside those areas at present included among backward tracts which might on further enquiry be found suitable for removal from that category altogether, there will remain other tracts which cannot be considered " typically backward." The general principle which we think should be applied is that where the bulk of the inhabitants of a backward tract are so little advanced that representative institutions cannot be provided in their case, the treatment which we have proposed in the last paragraph for the Assam tracts should be adopted. On the other hand, where backward tracts are more developed, though still unfitted to take their full share in the normal constitutional advance, different arrangements may have to be made in order to secure that they exercise such authority in respect of their own affairs as circumstances make possible. The best and perhaps the only instances of this latter class are those of

* See our account of them in Vol. I, pp. 158-161.

Chota Nagpur,* Sambalpur and the Santal Parganas. These areas, as we have said, have returned members to the Provincial Council, and, if they were entirely removed from the operation of the reformed provincial constitution in the same way as we propose that the Assam Tracts should be, they would lose the position they now hold. On the other hand these areas are deficit areas (this is one of the reasons why we think they had better not remain under the provincial Government) and the outlay which is necessary for their administration and development ought to fall upon central funds in so far as they do not pay for themselves.

133. It is evident, therefore, that these areas present a problem which, as things are, calls for exceptional treatment. It is possible that in connection with some redistribution of provincial boundaries hereafter (see paragraph 38 above) a different arrangement will suggest itself. We have already recommended that the claim of Oriya-speaking areas (which would include Sambalpur) to be recognised as a separate unit should be promptly considered, and it may be that the ultimate solution for Chota Nagpur is that it should continue under the charge of the Government of Bihar, while forming a separate unit, with such institutions as are suitable for its condition. But we must indicate what we think should be done in the meantime. These tracts should continue to return representatives to the Bihar and Orissa Legislature† ; the Governor, as the agent of the Governor-General in Council, will decide how far legislation enacted at Patna should apply to them. They will be under the same system of taxation, for provincial purposes, as the rest of the province, and the provincial revenues raised within them must be spent upon them. The additional funds needed must, as we have already said, come from central revenues. The administration of these areas, as of other backward tracts, will rest with the Government of India, which will act through the Governor, but we think that rules should be made to provide how far the Governor in the exercise of his agency duties would act in consultation with Ministers of the province who would advise him in the discharge of these responsibilities.

The Madras Agency Tracts.

134. The Madras Agency Tracts present a problem of a slightly different kind. Our difficulty here arises, not from any

* Except perhaps the Government estate in the Singhbhum district of Chota Nagpur which is called the Kolhan. This area, it seems, is a "typically backward tract."—See Vol. XII, Memorandum of the Bihar and Orissa Government, pages 335, 339, and 355.

† These representatives should not take part in voting in the Bihar and Orissa Legislature for the purpose of selecting the representatives of the province in the Federal Assembly. The tracts will, under the proposal in paragraph 144 below, be directly represented in the Federal Assembly by nomination.

belief that these important tracts have enjoyed a real participation in the existing Reforms, but from considerations of administrative convenience. The backwardness of these tracts seems to require that they should be completely excluded and placed under a single administrative head. But some of the evidence we have heard points to its being undesirable to dissociate them from the districts of which they now form parts. If this is so, we would see no objection to these tracts being treated on the same lines as we have suggested for Chota Nagpur.

PART IV.—THE CENTRE.

CHAPTER. PARAGRAPHS.

CHAPTER I.—THE CENTRAL LEGISLATURE.

The Federal Assembly.

135. We propose that, in place of the present Legislative Assembly, there should be constituted a new body, which we would call the "Federal Assembly," the members of which would not be directly elected by constituencies of voters, but would be mainly chosen, in proportions which we shall have to indicate, by the provincial councils themselves. The parts of British India which cannot be included within the areas covered by the provincial councils would also be represented in the Federal Assembly. A provincial council would select those whom the province sends to the Federal Assembly by the method of proportional representation—a mode of voting which is quite familiar to Indian legislators, and which is employed with success and to general satisfaction in choosing committees from among their number. The provincial councils, however, would not be limited in their choice of representatives to serve at the Centre to members of their own body, though such members would be eligible. Anyone, man or woman, who was on the electoral roll for the province, might stand for election as a member of the Federal Assembly representing that province. If a candidate so returned was already a member of the provincial council, he would not be disqualified from continuing to serve as such, if he was prepared to discharge the double duty, though his declared views on this matter might of course affect his chances of being chosen. The allowances provided for members of the Federal Assembly representing provinces would be charged on provincial funds, and would be non-votable. The election of the provincial contingent would be the first business of every new provincial council as soon as it had assembled and chosen its President.

The Federal Assembly would have a fixed life of five years. This corresponds to the maximum length of life which we propose for the provincial councils, and therefore, so long as this maximum continues to be attained, the choice of a provincial contingent to serve at the Centre will immediately follow each general election in the provinces. If, however, it should happen that there was in some province, by the decision of the Governor,

a premature dissolution of the Council, the provincial contingent serving in the Federal Assembly would not change on that account; its authority to represent the province for five years at the Centre would remain, but its authority could not extend further than this, and consequently a new provincial delegation selected by a newly elected provincial council would be required at the end of the *quinquennium*. If this principle was applied with absolute strictness, it might involve two general elections in a province in quick succession, the second of them merely to secure that the new body of members sent up to the Federal Assembly should be chosen by a provincial legislature which was fresh from the polls. This would be inconvenient and, in extreme cases, even absurd. To avoid such a result, it should be provided that when the time comes for a new Federal Assembly to be elected, an existing provincial council, if elected less than two years before, should be competent to select the provincial representatives to serve at the Centre for the next five years. A provincial council which has been elected less than two years before the expiry of the normal five years' period would not necessarily come to an end in five years, but the Governor would have power to extend its maximum statutory life so as to terminate at the end of the next *quinquennium*; seven years would thus be the extreme limit.

The object of these arrangements is to secure a return to the observance of the time-table of regular five-yearly elections after any intermediate dissolution. The general plan will appear more clearly if we give an illustration and assume dates. Suppose that the first elections for the new provincial councils take place at the end of 1931, so that they meet in January, 1932. Each of them will at once elect the representatives for the province who will belong to the Federal Assembly. That Assembly and all the provincial councils will continue until the end of 1936, when the simultaneous general elections in the provinces will again take place; and the next Federal Assembly will be constituted in January, 1937. If, however, the Governor of a particular province has found it necessary to dissolve his legislature prematurely, say in 1935, no further general election in that province will be necessary at the end of 1936, and the legislature in that province will be able to continue till the end of 1941, so that simultaneous general elections in all provinces may be resumed.

Two Main Features.

136. We have set out in the opening paragraph of this chapter the outline of our plan for the composition of the Federal Assembly, so far as members drawn from the Governors' provinces are concerned, so that its principal features may be at once apprehended. Those features essentially involve (a) indirect election by the newly-chosen members of the provincial councils, (b) the use of the single transferable vote as the means of such election. We must now

develop the reasons which lead us to our conclusions on these two main points, and indicate some of the consequences of their adoption.

Indirect Election.

137. First, as to indirect election. In our first volume, when describing the mode of composition of the Legislative Assembly, we have given illustrations to show the unwieldy and indeed extraordinary size of many of the existing constituencies returning members to it. Even if the membership of the Assembly were increased to the maximum size compatible with its function as a deliberative and debating chamber, the average area and population to be represented by a single member would remain far too large for effective responsibility to constituents, and extension of the franchise would only intensify the difficulty. The point will be more clearly apprehended if actual figures are considered. Assuming an Assembly of 460 elected members—a number which we consider too large for effective work under Indian conditions—each member would represent half a million people. A comparable unit would be the whole geographical county of Norfolk. Those who are familiar with the difficulty of getting in touch with the electorate in a constituency in Britain, where population is predominantly urban and communications highly developed, will appreciate the unreality involved in the creation of such a unit of representation for India. But the comparison just made assumes single-member constituencies and leaves out of account the added complication of communal representation, whether by way of separate electorates (which involve overlapping areas) or of reserved seats (which involve plural member constituencies). Either of these alternatives means that many constituencies must include three or four times the population and area referred to—some of them must be larger still where minorities are scattered thinly. The would-be member might well have to carry on his electoral campaign over an area as large as Scotland and have to seek his constituents among a population equal to that of Wales. Moreover, only a very limited number of places in the area will be reached by railway: most villages will be approached by no metalled road: and the electors will, for the most part, be unable to take advantage of the printed word. It was, we imagine, considerations of this sort which led the authors of the Joint Report and the members of the Franchise Committee to acquiesce in the plan of indirect representation at the Centre. The Joint Select Committee, sitting at Westminster in 1919, and familiar with British methods, rejected the proposal, which, indeed, had been opposed by some members of the Government of India and regarded by the others as defensible only as a temporary expedient. We venture, however, to think that *a priori* arguments against indirect election should not be considered, especially in the light of recent experience, as conclusive. It is indeed of great importance that the individual

voter in India should have the training in political responsibility which may come from going to the polling booth and deciding what candidate shall have his support. For this reason we should not be prepared to see the method of indirect election generally applied in electing the provincial councils. But, after provincial councils have been constituted by the direct choice of citizens of the province, it appears to us to be quite unwarranted to assume that training in citizenship will be impeded by the adoption of a device for constituting the central legislature, which, having regard to the size of India, has such manifest advantages and avoids such obvious difficulties. It may be said that the method of composing the Federal Assembly which we are suggesting will confuse the mind of the individual elector, since he will at one and the same time be choosing both a provincial representative and a member of an electoral college. The objection seems to us of theoretical interest rather than of practical substance. In our former volume, in chapters on "The Voter and the Member"* and on "Public Opinion in India,"† we have recorded our impression of the extent to which the less educated voter is learning the real meaning of politics. That he is beginning to learn we are quite ready to believe, but we feel confident that the distinction between All-India questions and provincial questions is not so clear to his mind as to justify the suggestion that he would be embarrassed in his choice by the double function of the successful candidate. He votes, we assume, for the man he trusts, and he will trust him for both purposes. Representative institutions were devised as a means of getting over the difficulty created by the expanding size of states, and it appears to us to be in strict accordance both with the theory of representation and with the requirements of common sense to say that, when the total area to be provided for is so huge that direct election would involve either impossibly large constituencies or an impossibly numerous assembly, the solution is to be found through "Election by the Elected"—which is all that indirect election means.

Federal Organs.

138. If, therefore, the argument turned solely upon mechanical convenience, the case for constituting the Central Legislature of British India by indirect election would be a strong one. But, as we have shown in Part I of this volume, the argument is by no means so limited. If the central government of British India is to develop on federal lines, the adoption of a method which will represent the provinces as such at the Centre is extremely desirable. If the hope of seeing the Indian States included, by their own choice, in such a federal union is ever to

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*Vol. I., Part III, Ch. 1.
† Vol. I, Part VII.

be realised, some such method of representing the units of federation in a central body, without dividing each of them up into a series of constituencies for central purposes, seems almost essential. Another point to which we attach importance is the establishment of a closer nexus between the member of the Federal Assembly and the provincial council. Our observations tend to show that under the existing constitution there is little contact between the two categories of public representatives. This is partly due to the slight connection of the member of the Assembly after election with his constituency and his consequent tendency to think more of his affiliation, communal or party, in the Assembly than of the interests of the province from which he comes. It is, we believe, essential to the working of the central government of so large a country as India that the diversities of provincial needs and opinions should find real expression in the Central Legislature. All the evidence goes to show that at present the actions of a member in the Assembly are not, and in the nature of things cannot be, subject to any real control on the part of his constituents. The issues at Delhi are too remote and unfamiliar for the average elector to apprehend. Under the plan which we propose the representative at the Centre will know that his actions will be subject to the criticism of a body of provincial legislators and the result will, we believe, be the creation of an enhanced sense of responsibility in the member, and an increasing probability that good work faithfully done will be rewarded by the increasing confidence of the province in its central representatives. Moreover, the report of Mr. Layton has satisfied us that this method of representing the provinces at the Centre will greatly facilitate a plan for making available further sources of revenue for provincial purposes.

An important part of Mr. Layton's proposals is the constitution of a Provincial Fund to be distributed among the provinces on the basis of population. The Fund will be fed by certain indirect taxes, which will be centrally collected. But though these taxes will be levied for the benefit of the provinces and will only be imposed on the recommendation of a council consisting of the Provincial Finance Ministers, the ultimate responsibility for imposing them will rest with the newly constituted Assembly. As, however, the Central Government under the scheme will only have a very remote interest in the proceeds, a complete divorce between responsibility for taxation and responsibility for expenditure would inevitably result, unless the central Assembly were directly representative of the provinces. Our own proposals for the reconstitution of the Assembly, while they are primarily based on other considerations, thus have the further advantage of meeting this difficulty and will facilitate the working of the financial scheme.

Proportional Representation.

139. The second feature of our proposal, to which we attach very great importance, is the use by the provincial councils of the method of proportional representation in selecting members for the Federal Assembly. By this means, while securing adequate protection for all important minorities, we are able to get rid of specific provisions for separate communal representation in the Assembly. Take, for example, the Muhammadans. We have already said that, in the absence of agreement between the two major communities, separate representation for Moslems in the provincial councils must continue and an adequate number of provincial seats must be guaranteed to them. It will, therefore, be open to the Muhammadan members of each provincial council to secure that a proper proportion of Moslems is returned to represent the province in the Federal Assembly. The same opportunity will be available for the Sikhs in the Punjab, for the depressed classes, and, of course, for the caste Hindus or for any substantial section of them. Whenever a body of distinct opinion is represented in a provincial council in sufficient numbers to produce a "quota," it can make certain that a member satisfactory to that body will be returned to the Federal Assembly. At the same time the communal complexion of the provincial delegation is not absolutely fixed, for it is one of the advantages of the system of proportional representation that there are marginal seats the occupants of which are likely to be returned by the votes of members of more than one community. On the other hand, if, as we hope, communal rivalries become assuaged, the system is equally available for the return of members to the Assembly, in due proportion and in accordance with the wishes of M.L.Cs., on a more general view of their merits and without seeking to preserve a precise ratio of communal distribution. But in either event—whether voting in the council is on strictly communal lines or not—the members returned to the Federal Assembly will all be the choice of the provincial council as a whole; they will be sent to the Centre to serve the general interests of the province; and they will have a new opportunity of learning the benefits of co-operation. And, however wide and deep communal divisions may remain, the constitution of the Federal Assembly will not have to provide for them by earmarking seats or classifying constituencies. Each member of a provincial delegation will belong to the Federal Assembly by the same title, and will be answerable to the same body of constituents. This we regard as a great gain and a hopeful development. It must not be assumed that the system proposed is new in India. A system of proportional representation, following the model of that in use in the South African Parliament, has been constantly employed in the Legislative Assembly and the provincial councils for the selection of committees. No difficulty has been found in its practical operation and the members fully understand it and appreciate its

advantages. It has proved its value in an Assembly where groups and parties are so numerous and fluid as to preclude the adoption of the methods familiar to us in the House of Commons.

The Size of the Federal Assembly.

140. Before considering in more detail the effects of the principles laid down above on the composition of the Assembly, it is necessary to indicate the number of members which we recommend. We think that a number between 250 and 280 would be suitable. This represents a considerable advance over the present membership of 145. If the method of election which we have suggested is to operate in such a way as to secure adequate representation for the smaller communities, some increase is necessary, and we think that this can be effected by the figure recommended. It will give approximately one member per million inhabitants. This proportion would, of course, be absurd if the members were to be elected directly, and even if it were to be doubled, the constituencies would still be much too large for effective representation by that method. There are, however, strong reasons for not making the Federal Assembly too big. It may be asked why India should be restricted to two or three hundred members when the British Parliament has to-day over six hundred and in the past has contained over seven hundred. Apart from the fact that most experienced parliamentarians would agree that the numbers of the British Parliament are so high as to hamper its effective working, it must be remembered that the range of subjects of which the Federal Assembly will have cognisance is very much smaller than that which engages the attention of the House of Commons. The work which has to be done at Westminster is in India divided between the Federal Assembly and the provincial councils. Too large a body at the Centre would mean either that effective work would be impossible owing to prolonged debate or that a large proportion of members would have little to do but to pass through the division lobbies. Practical reasons, namely, the increased cost and extended accommodation that would be involved, add weight on the same side. There is a further point. We hope that in due course the Indian States will be represented in the Federal Assembly, in which event it may be expected that the numbers might ultimately grow to between three and four hundred. Finally, an unduly large body at the Centre might tend to deplete the provincial councils of experienced public men, or might result in a lower standard of ability in the Federal Assembly.

The Composition of the Federal Assembly.

141. We must next consider in what proportion the Governors' provinces and the other units of the Federation should be represented at the Centre. Hitherto the three Presidencies, though of very different size and population, have been treated substantially alike and allotted seats in excess of the number

given to the other provinces, although one of these (the United Provinces) exceeds Madras in population and three of them (the United Provinces, Bihar, and the Punjab) are all more populous than Bombay. Moreover in the matter of representation these other provinces have been roughly graded on no clearly ascertainable basis. While unwilling to suggest changes which can be avoided, we think that there are at least two reasons for basing the future distribution of seats on a definite and easily applicable principle. The first is that we hope that there may be some adjustment of provincial boundaries, and the second is that the creation of the Federal Assembly involves the conception of the admission at some time or other of the Indian States. When this stage is reached, it is clear that the distribution of seats on a basis of history and prestige would raise grave difficulties. We, therefore, recommend the adoption of a population basis for fixing the number of seats to be allotted to each province. We consider that the allocation of one seat per million inhabitants will provide a convenient general principle, though necessarily it cannot be applied with absolute rigidity, especially in the case of the smaller units. In addition to the members representing the Governors' provinces, the minor provinces and the excluded areas, there will be an official element. Members of the Governor-General's Council will be *ex-officio* members, and we consider that the Governor-General should have power to nominate not more than twelve other officials, chosen because of their connection with the departments of the Central Government, in order that the point of view and experience of the Administration may be adequately represented.

Representation of the Governors' Provinces.

142. We have indicated the method whereby the members representing the Governors' provinces in the Federal Assembly will be selected, and the importance which we attach to their being elected by the provincial councils as doing away with the need for separate electorates for the Centre. At the same time it is in our view essential that important minority communities should feel assured that they will be able to obtain the representation to which they are entitled. This is secured not by laying down certain communal proportions and allocating seats on that basis to various communities, but by the manner in which the provincial councils have been composed. Our recommendations set out in Part II have been framed with due regard to the double purpose which the legislative councils are designed to fulfil in the constitution. They are, at once, representative bodies for the purpose of provincial self-government and electoral colleges for the Federal Assembly.

Communal Result.

143. While it is our hope that in course of time representatives will be selected for the Federal Assembly solely for their

fitness to serve irrespective of their communal affiliations, we recognise that this is at present a counsel of perfection. In order that some idea of the possible composition of the Federal Assembly may be gained, we have made an estimate of the probable proportions of seats which would be filled by members of the various communities in a Federal Assembly (composed as suggested above, and chosen by the method of proportional representation by provincial councils constructed as suggested in Part II, Chapter 2 above), if it is assumed that the voting in the provincial councils goes on strictly communal lines, that is to say, if every elector in the provincial councils, in using first and succeeding preferences, gives priority to all candidates of his own community. The calculation is made without taking any account of the possible presence in the provincial councils of an element nominated at the discretion of the Governor (outside the fixed number of seats) in accordance with the suggestion in paragraph 92 above. The precise effect of the presence of a small element of this kind in the provincial councils on the composition of the Federal Assembly is clearly not predictable, but there is nothing to lead one to suspect that it would make any material difference to the proportions estimated. We have also assumed that the members in each provincial council filling special constituency seats (Commerce and Industry, etc.) will be divided between the different communities in about the same proportions as at present.

On these assumptions, we should expect that those seats in the Federal Assembly which are filled by election by the legislatures of the Governors' provinces would be divided among the different communities approximately as follows:—Non-Muhammadans, other than Depressed Classes, just over 50 per cent.; Depressed Classes, 10 per cent.; Sikhs, 2 per cent.; Muhammadans, 30 per cent.; Indian Christians, 1 per cent.; Anglo-Indians, nil; and Europeans 5 per cent.

Actually about 5 per cent. of the total number of such seats would be indeterminate in the sense that it could not be predicted with certainty, even on the assumption of strictly communal voting in the provincial councils, exactly how these few marginal seats would be filled, and they have been left out of account in making the above estimate. There is thus a limited number of seats in which there is scope for variation. But examination of the figures shows that it is very unlikely that they could produce anything but exceedingly small changes in the above proportions.

It will be seen that with two exceptions adequate representation is secured to all minorities. The exceptions are the Indian Christians and Anglo-Indians. The former are only certain of representation from Madras, but there is a strong probability that members of that community would be nominated as representatives of the excluded areas referred to later. It is,

however, clear that the Anglo-Indians cannot depend on obtaining any representation at the Centre, if they have to rely on the votes of members of their own community, and it is quite impossible to increase their representation in any provincial council to a degree sufficient to ensure this result. We are, therefore, driven to make an exception from our general scheme, especially in view of the particular interest which this community has in certain of the central services, and to recommend that two seats should be secured to them in the Federal Assembly by nomination, if they should fail to attain this number by election.

Representation of the Other Provinces and Excluded Areas.

144. We recommend, as we indicated in Part III, that the North-West Frontier Province should be represented in the Federal Assembly by four members, three representing the Moslem community and one the Hindus. This is in excess of the number to which the province would be entitled on a strict population basis, but in view of the necessity of securing representation to the very small non-Moslem population without doing an injustice to the majority, and also of the particular interest of the province in central matters, we think it a reasonable allocation. The constitution which we have proposed for the province involves the creation of a legislative council. We should like to see the representatives to the Federal Assembly chosen by the method of indirect election recommended for the Governors' provinces. In view, however, of lack of familiarity with electoral methods, the system may be found too cumbersome for immediate adoption in the province, and it may for the present be necessary to fall back upon nomination by the Chief Commissioner, though we should strongly prefer that he should, before nominating, obtain the views of the North-West Frontier Provincial Legislature. In the case of British Baluchistan, where we have not proposed a legislative council, one member should be nominated by the Chief Commissioner after ascertaining the views of the leading men of the province, in Jirga or otherwise.

Coorg should have one member elected by its Legislative Council. The provinces of Delhi and Ajmer Merwara should also each have one member in the Federal Assembly. The Delhi representative should be elected by the members of the Municipal Council and District Board in joint session. For the present the representative of Ajmer Merwara should be nominated by the Chief Commissioner after ascertaining the views of responsible citizens. The Governor-General should nominate eleven members to represent the populations of the backward tracts. In view of the fact that the expenditure in these areas will be met from central revenues to which they contribute, and in view of the need for a progressive policy so

that in time they may be fitted for a measure of self-government, it is most desirable that their requirements should be put forward by persons qualified to speak with knowledge on their behalf.

Final Result.

145. It is possible to make a reasonably close estimate of the probable communal proportions among the members from the Chief Commissioners' provinces, the backward tracts and the official members. Adding these and the two Anglo-Indian seats to the seats filled from Governors' provinces, we should expect, on the assumptions made above, that the total number of seats in the Federal Assembly would be divided approximately as follows :—Non-Muhammadans, other than Depressed Classes, 50 per cent. ; Depressed Classes, 8 per cent. ; Sikhs, 2 per cent. ; Muhammadans, 28 per cent. ; Indian Christians and Anglo-Indians, slightly over and slightly under 1 per cent. respectively ; and Europeans, 10 per cent.

The proportion of Muhammadan members among the total of the Indian members, on this estimate, corresponds very closely to the similar proportion in the present Legislative Assembly (about 31 per cent. in each case). We have felt bound to give estimates of the above character, in order that there should be no misapprehension as to the scale of representation which minority communities could secure for themselves in the Federal Assembly under our proposals ; but it is, of course, one of the objects which we have in view in proposing the use of proportional representation, that there should no longer be stereotyped communal representation in the Central Legislature, and it is much to be hoped that voting in the provincial legislatures for the selection of their representatives at the Centre will not follow strictly communal lines.

Bye Elections.

146. It has always been recognised that one of the difficulties of the system of proportional representation is to decide by what method casual vacancies should be filled. Various expedients have been adopted, but we think that none of them is applicable to the particular circumstances with which we are dealing. We consider that the best method, at all events for the present, is that vacancies caused by death, resignation or other cause should be filled in the case of representatives of the provinces by the Governor nominating a person who will in his opinion best take the place left vacant. It may be that later on it will be possible to establish a convention whereby the councils would fill the vacancy by selecting a representative of the community or party to which the late member belonged or even to adopt one of the devices in use elsewhere, but until some experience of the manner in which the system works is obtained, it seems to us impossible to go beyond our recommendation.

The Council of State.

147. It has been generally admitted in evidence before us that the Council of State has played a useful part in the evolution of representative government in India. Its present constitution, however, is not easy to reconcile with the federal principle which we have adopted in framing our proposals for the Indian constitution. It owes its present position in the constitution largely to the Joint Select Committee which, contrary to the recommendations of the authors of the Montagu-Chelmsford Report, explicitly proposed to make it "a true second chamber."* Whatever may be the precise significance of the phrase, it is clear to us that the Joint Select Committee was thinking in terms of British parliamentarism and desired to form a body which should perform functions similar to those of the House of Lords in the British constitution. We have already stated our view that the parliamentary model is not the one most likely to be found suitable for the Central Government in India. We are therefore not constrained by the reasons which appealed to the Joint Select Committee.

As a rule, where a bi-cameral system is adopted in federal constitutions, the object aimed at is to provide a means of giving to the constituent units an equal voice in deciding certain questions of policy of the Federation. The Lower House is generally composed of representatives elected by constituencies formed on some basis such as population, whereas the Upper House or Senate contains an equal number of representatives from each of the constituent units without reference to their size. The United States of America affords a good example of this.

The method which, owing to the special circumstances of India, we have found it proper to recommend for the Lower House or Federal Assembly already contains to some extent the senatorial principle, in so far as the members are elected by federal units and not by constituencies of primary electors. By a system of Committees on which each province would be equally represented, it could easily be utilised for dealing with questions, in deciding which it is desirable that each federal unit should have an equal voice. There is, therefore, theoretically no sufficient reason for the retention of a Second Chamber, apart from the desire to bring to the counsels of the nation elements unlikely to be found in the Lower House.

There is also a further difficulty. We intend that in due course the Federal Assembly should develop into an All-India body containing representatives of the Indian States. It would clearly be anomalous to retain, indefinitely, a Second Chamber, representative of the elements of British India alone, to revise the decisions of an All-India Assembly. On the other hand, the enlargement of the present Second Chamber by the addition of Ruling Princes or other representatives of the Indian States

* See Vol. I, Part II, Ch. 2, para. 140, and Ch. 8, para. 174.

would involve difficulties of selection, especially in view of the desirability of not unduly increasing its size. In any case it is somewhat premature to express any definite opinion as to the practicability of such a proposal.

Reasons for its Retention.

148. There are, on the other hand, weighty reasons for retaining the Council of State as an integral part of the Central Government. It contains members of experience and distinction who have made valuable contributions to the discussion of public affairs. The Council of State has been a steadying influence during a difficult transitional period. We are also impressed by the fact that no demand for its aboliton has been brought to our notice. In the stage upon which India is now entering she will need all her resources of statesmanship and experience. There is much to be said against abolishing on purely theoretical grounds a piece of constitutional machinery which has worked well at a time when great changes are being introduced, the effect of which cannot at present be estimated. We are therefore of opinion that the Council of State should be retained with its present powers.

Composition of the Council of State.

149. The Council of State is, at present, composed of 60 members, 33 of whom (disregarding the special representative of Berar) are elected, while the remainder are nominated by the Governor-General. Of the latter not more than 20 may be officials. We propose that the numbers and proportions between elected and non-elected should be left unchanged.

At present the roll of electors for the Council of State is based on elaborate rules which lay down a number of qualifications for electors differing from province to province. The right to vote depends in the main on the possession of wealth, status, or on past occupation of some public post, such as the chairmanship of a municipal board. Despite the variety of qualifications, the number of electors amounts only to just over 32,000, which will be reduced on the separation of Burma from India to little more than 17,000. The rules also provide for communal electorates, and for special representation for commerce and industry. It is, we think, clear that considerable difficulty was found in forming an electorate, and we consider that the basis of representation is altogether too narrow. We had very little, if any, evidence on the subject, and it is impossible for us from the information at our disposal to judge how far any alteration of the electoral qualifications would continue to bring to the Council men possessing the attainments and experience which are desirable. We have had no constructive suggestions, and should desire, therefore, not to do more than indicate a possible composition of the Council of State.

Allocation of Seats in Council of State.

150. In conformity with our general scheme we think that seats in the Council of State should be allotted to federal units, and that the number allotted to the Governors' provinces should be, with some exceptions, distributed equally. We suggest that three seats should be allocated to the minor provinces, viz. :—

One to the North-West Frontier Province :

One to Delhi Province (The member might well be a Moslem when the representative in the Federal Assembly is a non-Muhammadan, and *vice versa*) :

One to be selected in turn from British Baluchistan, Ajmer Merwara, and Coorg.

In view of the extent to which matters of trade, commerce, and finance are central subjects, and occupy the attention of the Central Legislature, and the desirability of experience in these subjects being available, we suggest that in each of the cities of Madras, Bombay and Calcutta one member representing British and one representing Indian commerce should be chosen under rules by the appropriate organisations. We consider that the former differentiation in numbers in the Assembly in favour of the three Presidencies was due, apart from historic reasons, to the possession by those provinces of these three great cities, and it is not unreasonable that in a federal constitution these cities and their interests should receive special representation.

We recommend that each Governor's province should be represented in the Council of State by three members, and we suggest alternative methods for their election. If Second Chambers are constituted in the provinces, the representatives of a province in the Council of State might be selected by the members of those bodies, a similar method of proportional representation to that used in the elections to the Federal Assembly being employed. If, on the other hand, no Second Chambers are created, the members of the Council of State might be elected by the members of the provincial councils, the same method of proportional representation being employed.

Qualifications for Membership.

151. Whichever method may be adopted for the selection of representatives, we think that rules should be made laying down certain qualifications for candidates, directed to securing the possession by them of experience and status. A list of qualifications might be drawn up somewhat on the lines of those for electors to the Council of State under the present constitution, but perhaps less wide. They should be in our opinion such as to bring to the Council of State the qualifications of distinction, leadership, authority, and experience; for instance, distinguished members of the Services, ex-Judges, and ex-Ministers, besides those who have gained honour in other walks of life, would we think be the kind of candidates desired.

As regards nominated members, we consider that the Governor-General should have the right to nominate not less than 20 officials, though it might well be that this right would seldom be utilised to its full extent. With regard to the other nominated members, we consider that the Governor-General, while quite unfettered, should have regard to the desirability, in view of the fact that labour legislation is a central subject, of including representatives of organised workers in industry. We consider that there should be no sex disqualification for membership of the Council of State. Members of the Governor-General's Council should have the right to speak in either House, but should only vote in the Council of State if they have been nominated as members by the Governor-General.

Seven years' life suggested.

152. The Council of State has hitherto had a life of five years as compared with the three years of the Legislative Assembly. We have already proposed to extend the life of the Assembly to five years. In most constitutions a Second Chamber is given a longer life than the Lower House. There is, we think, much to be said against bringing all legislative bodies in India to an end at the same time. While we have proposed that the term of the Federal Assembly should coincide with those of the provincial councils, we think it desirable that the Council of State should not do so. We therefore suggest that the new Council of State should be elected at the same time as the new Federal Assembly, but should have a life of seven years, so that after the first elections the two Houses will be reconstituted at different intervals.

Powers of the Central Legislature.

153. We will now proceed to deal with the legislative and financial powers of the Central Legislature, leaving to a later chapter the question of its relationship to, and influence on, the Central Executive. The Federal Assembly will inherit all the powers of its predecessor, and the proposed change in the method whereby the Council of State is elected does not entail any alteration in its constitutional authority. We shall indicate later additional functions to be performed by the Federal Assembly in the sphere of finance. The changes which we have proposed in the method of composition of these bodies are, however, dictated by our conception of the future constitution of India. As that develops, there will, we conceive, be a gradual alteration in the range of duties to be performed by the Central Legislature. While the immediate changes are not great, there are future possibilities which may be far reaching and the nature of which we shall indicate.

Nature of its Legislative Powers.

154. The Central Legislature has power to make laws for all persons, courts, places and things within British India, for all

subjects of His Majesty and servants of the Crown within other parts of India and for all Indian subjects of His Majesty without and beyond, as well as within, British India. These wide powers are subject to certain qualifications set out in section 65 of the Government of India Act. A further important limitation is that contained in section 67 whereby the previous sanction of the Governor-General is required for the introduction of any measures affecting

(*a*) the public debt or public revenues of India or imposing any charge on the revenues of India;

(*b*) the religion or religious rites and usages of any class of British subjects in India;

(*c*) the discipline or maintenance of any part of His Majesty's military, naval or air forces;

(*d*) the relations of the Government with foreign princes or states; or any measure

(i) regulating any provincial subject, or any part of a provincial subject, which has not been declared by rules under the Act to be subject to legislation by the Indian Legislature,

(ii) repealing or amending any Act of a local legislature,

(iii) repealing or amending any Act or Ordinance made by the Governor-General.

As we have stated, we do not propose to make any alteration in these powers, but we shall indicate later the extent to which the Governor-General will be authorised to overrule the decisions of the Central Legislature and to legislate by Ordinance on occasions of emergency. We have already stated in Part II, Chapter 2 that we desire to retain the provision of the existing Act which effects, without resort to litigation, a proper distribution of legislative power between the Centre and the provinces. There is, therefore, no need for us to consider now upon what principles in the future a more strict delimitation should be based. It may well be that, as the federal system takes shape and especially if the adhesion of a number of Indian States should take place, the matter may have to be reconsidered. It may be observed that by changes in the statutory rules it is possible to introduce modifications without a new Statute.

155. In actual fact to-day the Central Legislature deals with two distinct classes of legislation, one of which affects British India only; the other class, while of operative effect only in the parts of India under British rule, in reality affects matters of All-India concern. We may give as an example of the first class the Child Marriage Restraint Act of 1929 (commonly called the Sarda Act) and of the second the Indian Currency Act of 1927 and the various tariff measures. It is clear that at a later stage, if and when Indian States have entered the Federation, special

arrangements would have to be made if these two different classes of legislation were to be dealt with by the same legislative body : but this does not call for consideration at present.

While we do not wish to propose any alteration of the law which would restrict the range of the legislative power of the Centre, we consider it probable that in future the first category will more and more come to be left to provincial legislatures. Already, a provincial council can undertake, with the Governor-General's previous sanction, legislation on a subject which is allotted by the devolution rules to the Centre† : we should expect that the new provincial legislatures would seek to make a wider use of this power, and that the sanction of the Governor-General would be more freely given. For instance, there is at the present time great difficulty in passing measures affecting social and religious customs in the Central Legislature on account of the wide diversity of conditions in India. One province may be ripe for change, while others still cling to their ancient ways. One province may be deeply interested in securing a reform, while others are not affected by the evil to be remedied. We think that in the past this has tended sometimes to restrict advance to the pace of the least progressive province. We should like to see a more extended use made of a method familiar in Britain in the sphere of local government whereby Acts are passed by Parliament which require to be "adopted" by a local authority before they can come into force in its area. In a similar way, the Central Legislature might usefully exercise its present powers by passing enabling Statutes which would be subject to adoption by resolution of a provincial legislature. It may well be that in this way the Central Legislature could assist in extending desirable reforms without obliging all parts of India to advance simultaneously.

The Question of Discriminatory Legislation.

156. Spokesmen of various minorities, religious and racial, have urged before us that the powers of Indian legislatures should be so defined in the governing Statute as to exclude the possibility of discriminatory legislation by making it invalid. Among the documents submitted to us, some detailed memoranda on this subject were prepared which we have carefully studied. It was represented to us by the European Association and the Associated Chambers of Commerce that constitutional safeguards are required against legislation, central or provincial, which discriminates against particular sections of the community in matters of taxation, trade or commerce. On our suggestion the two bodies submitted to us drafts of clauses which they would desire to be enacted to secure their objects. We have given careful consideration to their proposals, but there are objections to securing protection by the means they suggest to which we can find no answer. Many other interests have asked for similar

† See Vol. I, para. 153.

constitutional safeguards and we are clear that statutory protection could not be limited to particular minorities, or to discrimination in matters of trade and commerce only. The statutory provision would therefore have to be drawn so widely as to be little more than a statement of abstract principle, affording no precise guidance to courts which would be asked to decide whether a particular group constituted a minority, and whether the action complained of was discriminatory. Moreover, having regard especially to the ingenuity and persistence with which litigation is carried on in India, we should anticipate that an enactment of the kind would result in the transfer to the law courts of disputes which cannot be conveniently disposed of by such means. It has always to be remembered that, if a law court has jurisdiction to dispose of well-founded claims based on solid grounds, it is also bound to listen to far fetched complaints with no real substance behind them. These objections are decisive against the proposal to prevent discriminatory legislation by attempting to define it in a constitutional instrument.

Safeguards for Minorities.

157. Safeguards for minorities must therefore be provided in other ways. They are needed not only in reference to legislation, but also in the field of executive action. We have set out in paragraph 36 of Part I our view that such protection is absolutely necessary. But the only practical means of providing it is by the retention of an impartial power residing in the Governor-General and the Governors of provinces for the purpose, and in laying upon them by the terms of their Instruments of Instructions a specific mandate to use this power in all proper cases.† In pursuance of this view we have recommended in paragraphs 50 and 97 that the Governor should have powers, independently of the views of his Ministry, to prevent legislation which involves serious prejudice to one or more sections of the community as compared with other sections. The Governor-General is armed with a similar power in relation to the Central Legislature.

Democratic government, while based on the rule of the majority, depends for its general acceptance on due regard being shown to the interests of minorities, and we are slow to believe that, with the increasing opportunities now opening to the

† The present Instrument of Instructions specially requires and charges a Governor "to see that no order of your Government and no Act of your legislative council shall be so framed that any of the diverse interests of or arising from race, religion, education, social condition, wealth or any other circumstance, may receive unfair advantage, or may unfairly be deprived of privileges or advantages which they have heretofore enjoyed, or be excluded from the enjoyment of benefits which may hereafter be conferred on the people at large." We have not been able to trace any express direction to the same effect in the Instrument of Instructions to the Governor-General, though, of course, he acts on this principle. We think it is a matter for consideration whether, in his case also, a clause should be inserted in the Instrument.

legislatures of India, it will not be appreciated how greatly progress depends upon satisfying the reasonable claim to equal rights of these minorities whether British or Indian.

Financial Powers of Legislature and Division of Resources between Centre and Provinces.

158. We have already given in Ch. 6 of Part V of Volume I a full account of the powers of the Central Legislature in relation to finance, and in Part VIII of the present volume our Financial Assessor has reviewed and analysed in great detail the whole subject of India's financial position. Many of Mr. Layton's suggestions, valuable as they will certainly be to the authorities concerned, necessarily travel somewhat beyond the range of our constitutional enquiry, though not beyond the proper range of his investigation. We are not required, nor are we competent, to express an opinion on such matters as his estimates of future revenue and expenditure, which he has used for the purpose of illustrating his scheme, or on his suggestions regarding the imposition of fresh taxation. We do, however, accept and fully endorse the general principles of his scheme for the division of resources in British India between the central and provincial Governments. In this chapter we are concerned only with financial affairs in so far as they affect the constitutional position of the Central Legislature.

It is of the greatest importance that the actual financial position of the central and provincial Governments should be clearly understood, because success or failure in constitutional experiments depends largely on the extent to which those who have to operate them are provided with adequate revenues. The Montagu-Chelmsford Reforms effected a division between central and provincial finance and allocated separate sources of revenue to each. This was an essential element in the work of decentralisation which was then inaugurated. But the revenues allotted to the provinces have proved insufficient and inelastic. It is, we believe, vital to the success of the next stage in the development of Indian self-government that, while the Central Government should be able to meet its responsibilities, the provinces should command adequate resources. Mr. Layton's report shows the essential factors in this situation and their relation to the constitutional issue. He points out that it is not possible to make good the deficiency without drawing upon new taxes, a considerable number of which should for various reasons be imposed and collected by a central authority. The revenue raised by such taxes might be distributed to the provinces by means of a system of grants in aid by the Centre to the provinces. But this would involve some measure of central control and would run counter to the whole trend of constitutional development which we are recommending. We are endeavouring to complete the process of decentralisation by constituting the provinces as self-governing units in a federation. Financial autonomy is essential if this is to be done.

159. We are therefore persuaded that the scheme suggested in Mr. Layton's report for the constitution of a Provincial Fund offers the most satisfactory means of ensuring adequate resources to the provinces without infringing their autonomy. This fund will be fed by the product of taxes, voted by a Federal Assembly representing provincial units, but collected centrally. Consequently, we propose that in the financial sphere the Federal Assembly should perform a dual function. It should be not only the representative body for the purpose of imposing taxation for the needs of the Central Government of voting estimates and of controlling expenditure at the Centre, but also a federal instrument for raising the necessary additional funds for the provincial governments. One of the reasons which have led us to reconstruct the Central Legislature on a basis of representation of federal units is that a body so formed will be suitably composed for performing this function. The Council of State will, as hitherto, be restricted in regard to finance to passing or rejecting Money Bills relating to central revenues and will have no concern with the Provincial Fund Bill. We will now proceed to consider the financial powers of the Federal Assembly in its double capacity.

Powers of Taxation.

160. The power of initiating measures of taxation for central purposes will, as heretofore, be vested exclusively in the Executive, but all such measures must be passed by the Federal Assembly and also by the Council of State. Both bodies have full power to amend or to reject any such measure, but the present provision would continue that where the Governor-General considers that its passing is essential for the safety, tranquillity or interests of British India or any part thereof, he may certify the measure which thereupon has all the force of law.

It has been a general practice in India to vote annually all the principal taxes except customs duties. This appears to have originated in a desire on the part of the Assembly to follow the practice of the British Parliament whereby one direct and one indirect tax has been voted annually. It is enough to say that the reasons which led to this practice in the British Parliament† do not appear to have any application to India and, while we do not make any specific recommendation on the point, there would seem to be no constitutional reason to-day why there should be an annual Finance Bill when there are no changes in taxation.

Estimates and Supply.

161. As regards the voting of the Estimates, the division between votable and non-votable charges will remain as at present. Certain charges, such as cost of defence, the debt charges and the salaries of All-India services, have been hitherto exempt from the need of an affirmative vote. This distinction has

† See Vol. I, Part V, ch. 6, para. 428.

not in practice operated as an impediment to free criticism in the Assembly of the general administration of the services concerned. The Assembly has full power to reject or to make "cuts" in the votable items of expenditure, but the Governor-General in Council has power to restore such demands where he considers they are essential to the discharge of his responsibilities. We propose no alteration in this regard.

Standing Finance and Public Accounts Committees.†

162. The Assembly exercises its influence over finance by a Standing Finance Committee which is presided over by the Finance Member and is a purely advisory body. The Executive has, however, rarely if ever ignored its advice, nor has the Assembly ever dissented from its views. Its appointment does not rest on any statutory provision. We consider that it has proved a useful piece of machinery, and that it should be retained. The Public Accounts Committee of the Legislative Assembly, which is a statutory body, performs functions very similar to those of the corresponding Committee of the House of Commons, and we suggest no change.

The Provincial Fund.

163. As we have already indicated, we suggest an extension of the activities of the Central Legislature in the sphere of finance by making the Federal Assembly the instrument whereby additional revenues will be raised for and distributed among the provinces. The scheme which is set out in detail in Part VIII, the Report of our Financial Assessor, starts with the recognition of the necessity for providing greater financial resources for the provinces. The proposal involves, *inter alia*, the assigning to the provinces of the proceeds of certain indirect taxes which would be collected and administered centrally. The sources of revenue which would be thus assigned to the provinces would be stated in a statutory rule. The result of placing a source of revenue in the provincial list would be that it would be no longer available to contribute to central funds, save that, in cases of emergency, a surcharge could be levied and, if necessary, certified by the Governor-General in respect of any such tax. Also, the Central Government would be entitled to impose, in an emergency, taxes included in the schedule, which were not at that time being drawn upon for provincial purposes. In so far as taxes in these scheduled sources of revenue were imposed for the use of the provinces the proceeds would be paid into a Provincial Fund, the accounts of which would be kept entirely separate. This Fund could not be drawn upon for any purpose of the Central Government. We propose that the legislation necessary for the imposition of these taxes should be passed by the Federal Assembly sitting in special session. The Finance Member of the Central Government would formally introduce

† See Vol. I, paras. 425 and 429.

the necessary measures. But it is of the essence of this plan that the proposals for raising additional taxes should emanate from the provinces. We therefore suggest that there should be an Inter-Provincial Financial Council which would be summoned by the Finance Member and attended by all the Ministers of Finance of those units of federation which would be entitled to draw on the funds. At this meeting it would be open to a Minister of Finance from any of the provinces to propose the imposition of additional taxation or the repeal or reduction of any of the taxes falling within the scope of the Provincial Fund. We suggest that any proposal supported by representatives of three or more Governors' provinces† should be laid before the Federal Assembly. While the Finance Member would formally introduce the proposed financial legislation, it is clear that under this scheme he could not make himself responsible for supporting every proposal; indeed, it might well be that, having regard to his duties towards the finances of the Centre, he might on occasion find it necessary to oppose proposals put forward by the provinces. We consider, therefore, that at the special session the Minister of Finance of each province or his representative should be entitled to attend and speak in support of or opposition to these proposals but not to vote. When these proposals have been discussed and a decision to propose certain taxation has been come to, it would rest entirely with the Federal Assembly in special session to accept or reject them by a majority vote, but the Governor-General should have no powers of certification for overruling their rejection. His assent would, of course, be necessary before any legislation became effective, but that of the Council of State would not be required. We propose that the Provincial Fund should be distributed among the units of the Federation, i.e., both provinces and excluded areas, on the basis of population. We have recommended this basis of distribution because it affords a rough guide as to the needs of the various provinces. It is impossible to work out in detail the relative taxable capacity of each area, nor is it feasible to make specially favourable grants out of the Provincial Fund to areas which are poor, or to areas which for one reason or another have exceptionally heavy charges to bear, and we have, therefore, to take the best criterion available.

The Statute should provide that no alteration of the rule allocating certain sources of revenue to the Provincial Fund could be made with the result of taking out of it a source already allotted, except after the passing of a resolution supported by a majority of the representatives of two-thirds of the Governors' provinces, including for this purpose the North-West Frontier Province.

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† The N.W.F.P. should be treated as equivalent to a Governor's Province for this purpose.

While the rule would provide that the distribution of the Provincial Fund should be in proportion to provincial population, the Statute should provide that this rule cannot be altered and another basis of distribution substituted without the approval both of two-thirds of the members of the Federal Assembly, and also of a simple majority of the representatives of two-thirds of the Governors' provinces (including for this purpose the North-West Frontier Province).

CHAPTER 2.—THE GOVERNOR-GENERAL IN COUNCIL.

Results of Abolishing Dyarchy in the Provinces.

164. In our first volume (Part II, Chapter 9) we have outlined the formal structure of the present Government of India, and in later portions of the same book we have described its general working, its control over provincial matters, its responsibility for special areas and subjects, the influence exerted upon it by the Central Legislature, and its relations with the Secretary of State. In the earlier chapters of the present volume we have laid down the principles of constitutional advance as we conceive them (Part I) and have worked out the application of these principles in considerable detail to the Governors' provinces (Part II) and to other important areas (Part III). The changes involved are great, not only in the forms of provincial institutions and in the increase of provincial responsibility and self-government, but in the whole spirit in which the constitutional future of India is approached. It will be a most significant advance—not unattended with risk, but none the less in our opinion justified—to break down the boundary between reserved and transferred subjects and to put an end to dyarchy. We have recommended this course because, whatever the degree of success or failure of provincial dyarchy in practice, its continuance is no longer feasible. We believe that its further operation would cause distortion of the framework into which it was intended to fit, and that its removal will bring Indian Ministers face to face with the full burden of office, and will give to them, to the provincial legislatures, and to the provinces themselves, actual experience of "responsible government" as a whole. So considerable a reconstruction will in itself be regarded by many who are in full sympathy with Indian aspirations as premature and as putting law and order in greater jeopardy. But we hold that the risk ought to be taken, subject to the provision of powers residing in the Governor which will be kept in reserve but will, with support from the Centre, be resolutely used if necessary.

Impossibility of Dyarchy at the Centre.

165. We have now to consider what light this throws upon the all important question of the form which the Central Government should take at the next stage of India's evolution. It must be a Government which can give to the provinces, in case of need, the support of which we have just spoken. Besides this, it must be a government able to bear the vast responsibilities which are cast upon it as the central executive organ of a sub-continent presenting the complicated and diverse features which it has been our business to describe.

First, we lay down without hesitation the proposition that dyarchy at the Centre, or any system of divided responsibility resembling dyarchy, is quite impossible. Unity in the central executive must be preserved at all costs. The working of dyarchy in the provinces,, the degree of success which the system in some cases undoubtedly attained, and the reasons for the disappointments to which in other instances it gave rise, have been elaborately described in our former volume. They need not be repeated at any length here. Some of the reflections suggested by the history of dyarchy are, however, particularly relevant in considering whether an analogous division of functions could be introduced into the Government of India. Dyarchy is a system which aims at assigning the sole responsibility in a certain list of matters to the official side of Government, while Ministers drawn from the ranks of elected members are supposed to concern themselves solely with their own departments. The popular element in the Executive could thus, in theory, stand on one side and watch with detachment the handling of questions with which it was not concerned. But this is not the effect in actual working. It has often been found impossible to isolate one decision from another, with the result that real responsibility becomes blurred. Dyarchy has doubtless provided provincial Ministers with a very valuable experience in the responsibilities of departmental work and in the art of commending ministerial policy to private members. But it is one thing to control a branch of administration and to work out a departmental policy; it is quite another thing to co-operate in reaching and carrying out a united decision involving co-operative action in times of crisis. Dyarchy cannot be regarded as affording much training in taking responsibility for unpopular, though necessary, decisions, and it does nothing to guarantee unity of control and policy when unity is most essential and when the strength which unity ought to give is most needed. These are the main considerations which make any suggestion to introduce dyarchy into the Government of India wholly inadmissible.

The Essentials of Joint Responsibility.

166. It would indeed be an astonishing result if, at a time when dyarchy is abandoned in the provinces, the introduction of a similar principle were to be recommended at the Centre. The ultimate creation of responsible government at the Centre cannot be reached by constructing a Central Executive one part of which is not responsible for the other. We regard such a plan as not only unworkable in itself, but as no real advance in the direction of developing central responsibility at all. Appeals have of late sometimes been addressed to the Viceroy in criticism of decisions of the Government of India in terms which would almost seem to suggest that the Governor-General was not a

member of his own Government. Of course, the true constitutional position is that every published decision of the Government of India is a decision for which the Governor-General, no less than all his colleagues, takes responsibility. But the situation that would arise if the method of dyarchy were introduced in the Central Executive would destroy this constitutional doctrine in a manner which would not only weaken Government but would put the Viceroy in a situation so embarrassing as to be almost intolerable. For he might constantly find that he had to choose between two sets of advisers all of whom were his colleagues, and that while the ultimate policy to be announced was in accordance with his judgment, the constitution permitted some members of his own Government to dissociate themselves from his decision.

The Position of the Governor-General.

167. It is clear therefore that whatever shape the Government of India may hereafter assume, its formation ought to be such as to secure its internal unity. A second conclusion on the subject of the Central Executive which can be asserted with confidence is that the Governor-General must continue to be not only the representative of the King-Emperor in all formal and ceremonial matters, but the actual and active head of the Government. We have described in Chapter 10 of Part II of our former volume the range and importance of his present functions, and it appears to us evident that in the next stage of India's constitutional evolution this range will not be narrowed and its importance will not decrease. Indeed, as has already appeared in our chapter on the Provincial Executive, there are cases in which we think responsibility should be placed on his shoulders which is at present constitutionally discharged by the Governor-General in Council. The question of future relations with the Indian States suggests another instance of the same sort.† The influence, advice and direction of the Viceroy for the time being will certainly be needed for many years to come if the constitutional progress of India is to be successfully promoted.

The Governor-General to choose his Executive Council.

168. One change which we think should now be made is to place upon the Governor-General himself the responsibility of

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† See Vol. 1, Part I, Ch. 9, para. 104, and also Part VII below, para. 229.

The removal from the Governor-General in Council to the Viceroy of the control of relations with Indian States is not, of course, a form of dyarchy at the Centre, any more than the transfer of responsibility for the Army would be. Both these changes would involve a fresh delimitation of the powers and responsibilities of the Government of India, but within the scope assigned to it the Government of India would remain an undivided body, every member of which took responsibility for the whole. The fact that the Governor-General has in a separate capacity other responsibilities does not conflict with the essential unity of the Government of India in relation to matters which are within its sphere.

selecting and appointing the members of his Cabinet. At present, members of the Governor-General's Executive Council are appointed, under the advice of the Secretary of State, by warrant under the Royal Sign Manual, and the Secretary of State, in making his recommendations, is of course largely guided by the Governor-General's advice. But there is a real difference between this situation and the constitutional position which we seek to get established. Under the new plan, the Governor-General would of course remain subject to the superintendence and control of the Secretary of State, but apart from this the choice of colleagues would rest with him in theory, as it now usually does in fact. The modification we propose carries out the principle which should govern, as far as possible, the new Government of India Act by leaving room for further developments through the operation of constitutional growth, while at the same time securing what is practically necessary at the present stage.

Composition of Executive Council—Provision for Future Changes.

169. The same principle leads us to propose some other modifications of the present Statute. Section 36 of the Government of India Act enacts that three at least of the members of the Governor-General's Executive Council "must be persons who have been for at least ten years in the service of the Crown in India." We are by no means disposed to suggest that the time has come to dispense with this provision, but we think that it, and any similar directions as to number or qualifications of the Governor-General's Council, should be expressed, not in the Statute itself, but in statutory rules made under the Statute. Such rules would, therefore, be subject to alteration without the necessity of passing a new Government of India Act, though any alteration of rules on this subject must come within the proviso to be found in section 129A, i.e., the draft amendments must be laid before both Houses of Parliament, and the approval of both Houses expressed by resolution. It does not seem to us possible to take the view that Parliament can now surrender all responsibility for future modifications in the structure of the Central Government of India. To suggest that it could do so would be to deny the terms of the Preamble to the Government of India Act, and to forget the conditions included in Mr. Montagu's declaration of August 20th, 1917. But this recognition of continued Parliamentary responsibility is a very different thing from insisting that no modification is possible in the future without the cumbrous procedure on each occasion of passing a new Statute through the British Parliament. We desire to reduce the rigidity of the statutory structure because we are convinced that Indian institutions ought to be given room to grow and develop. While, therefore, it is impossible,

in our judgment, to provide at this stage as much latitude for change in the central sphere as in the provincial constitution, we propose by the means we have described to provide in the central sphere also opportunities for adjustment while preserving to Parliament the responsibility, which it cannot at present abandon, for future decisions.

The Commander-in-Chief.

170. The Commander-in-Chief in practice is a Member of the Governor-General's Council, though there is no provision in the Government of India Act requiring this to be so. So long as the Commander-in-Chief is a Member of the Executive Council he is necessarily a member of one or other Chamber of the Indian Legislature, with the right of attending in and addressing the Chamber to which he does not belong [section 63E (4)]. In our view, however, the Commander-in-Chief should not be a Member of the Executive Council and should not sit in the Legislature. His immensely important and onerous duties are better discharged outside it. Later on, in Part V of this volume, we shall consider in detail the constitutional problem in relation to the Army and make some suggestions which, if adopted, would place the subject of the defence of India in the hands of the Viceroy (who would, of course, act in the closest collaboration with the Commander-in-Chief) instead of retaining it as a responsibility of the Government of India acting in relation with the Central Legislature. As will be seen when we develop this part of our plan, our object is to assist in removing from the path of India's constitutional progress an obstacle which otherwise threatens to block it for an indefinite time. But whether agreement is reached to put into operation this part of our scheme or not, we hold the view that the Commander-in-Chief should be outside the Governor-General's Cabinet and should not be called upon to take part in the debates of the Legislature. He would retain the rank and precedence at present belonging to him and would, of course, be called into consultation on all necessary occasions. Questions of defence, so far as they come before the Indian Legislature, should be dealt with by a civilian. The Army Secretary would be available, but on occasions of the first importance the task would appropriately fall upon a new Member of the Viceroy's Executive Council whom we would describe as the Leader of the Federal Assembly.

The Leadership of the Federal Assembly.

171. We think it is very desirable that there should be included in the Governor-General's Council a Member, not overburdened with departmental work, whose primary function should be to " lead the House." This duty at present usually falls upon the Home Member, the range and burden of whose

multifarious responsibilities we have described in Part II, Chapter 9 of our former volume.* Nothing is more remarkable, to an English Member of Parliament who has had the opportunity of watching the proceedings of the Legislative Assembly, than the fact that a heavily burdened permanent official, who is the head of the Home Department, is also expected to discharge in the Legislature the duty of being the principal Government spokesman and of guiding the course of business so far as it falls to the Government to do so. It is very much as though the permanent head of one of the principal departments in Whitehall should also undertake the Parliamentary functions of the First Lord of the Treasury. This situation has arisen from the evolution of government in India from a stage when a purely administrative system was tempered by discussions in which "additional members" took part to the stage when Government policy has to be expounded and defended before a vigilant body of critical legislators. The double burden now cast upon the shoulders of one man is growing intolerably heavy, and we think that the time has come to recognise the changing circumstances and to make special provision to meet them by including in the Viceroy's Council a Member who will perform in the Federal Assembly functions corresponding to those of the Leader of the House, without being at the same time pre-occupied with the work of a heavy administrative department. It may be objected that, since the sessions of the Indian Legislature extend over only a few months in the year, there would be no permanent occupation for the holder of such a post. But we do not agree. The responsibilities which rest all the year round upon the Government of India would be all the better discharged if among the Viceroy's colleagues there was one who was free to take a comprehensive view untrammelled by constant attention to a particular department. It would, we think, fall to him to take supervising responsibility for the more adequate presentment of explanations of Government policy to the peoples of India.† We wish to make it plain that the suggestions we have been making are not at all intended to affect, by a side-wind, the proportions of Indian to British Members of the Viceroy's Council. These things do not depend on statute and should not be made to do so. The object to be aimed at is to facilitate the inclusion in the Viceroy's Council of the best and most authoritative Members, both Indian and British, and latitude should be preserved to enable a choice to be made which provides in the best possible way for discharging the functions of that body in relation to the Indian Legislature.

The Distribution of Portfolios.

172. The distribution of portfolios in the Government of India is determined by rules and orders made by the Governor-General. We have described in Chapter 9 of Part II of our first

* Volume I, para. 183.

† See Chapter 5 below on "The Authority of Government."

volume what the present distribution is, and how in some cases a number of very different subjects fall under the charge of the same Executive Councillor. This method of distributing the work of Government between its members according to rules and orders made by the Governor-General should continue: it provides a convenient means of securing adjustments when they are needed. But we think that, in connection with the new proposals which we are making, it will be desirable to reconsider what the best distribution would be. For example, we are proposing to transfer from the provincial Governments to the Government of India the charge of backward tracts, which in future should be called "excluded areas." This is a very responsible and important branch of government, and one in which the progress and protection of the inhabitants of these "excluded areas" almost entirely depends upon good administration. The question should be considered whether a portfolio should not be specially created in this connection, which would be held either by a Member in charge of "excluded areas," or combined with other duties in the hands of an existing Executive Councillor. In the same way, the centralisation of the High Courts will require that this subject should be allotted to a member of the Governor-General's Council.

Prospect of including Elected Members of the Legislature in the Executive Council.

173. This leads us to make another observation on a matter which has greatly struck us in considering the composition of the Governor-General's Council. As yet no individual elected to the Central Indian Legislature has ever become a Member of Council. There is no constitutional bar against this happening, though it is, of course, true that, if an elected Member became an Executive Councillor, his seat would fall vacant and he would belong to the Legislature in virtue of his office and not because he had a constituency. This result follows from section 63 E of the Government of India Act. If opportunity was found to include among the Viceroy's colleagues and advisers some one or more who have been made members of the new Federal Assembly by election from the provinces or some elected member of the Council of State, such a member by accepting ministerial office would still cease to hold his seat by virtue of election. Indeed, a member sent to the Federal Assembly as part of the delegation from a particular province, with special duties to that province in connection with finance and otherwise, could not combine the two functions. It would be a hopeful development if, among the men whose personal reputation, character, and experience in public affairs have led to their being chosen as provincial representatives in the Central Legislature, there were found some who would pass from their position as private members to undertake a share of the responsibility

for directing the policy of India. The attainment of an authoritative place in the Federal Assembly ought to provide a natural avenue to membership of the Governor-General's Council.

Room for Development.

The Governor-General's Executive Council in the next stage of India's constitutional development cannot, in our judgment, be " responsible " to the Indian Legislature in the same sense as a British Cabinet is " responsible " to the British Parliament, though, as we shall show in the next chapter, the influence of the Indian Legislature upon the Executive, which is already considerable, will undoubtedly grow. It has struck us as remarkable that it should be so commonly assumed in India that the development of responsible government must take place on purely British lines. Our first volume has been largely occupied in showing how utterly different are the conditions of India from those out of which this particular form of responsible government has been in the course of centuries evolved in Britain. Our own view is that, until the provinces of India have established themselves, by the working of unitary Goverments, as self-governing units, the ultimate form which the Central Government of India will take cannot be finally determined. The question whether Indian States will contribute to the ultimate process has yet to be answered. Federal Executives do not assume a definite or final shape until the units of federation come naturally together. The utmost, therefore, that can be done now is to reduce, by such methods as we have outlined, the rigidity of the structure of the Central Executive, to make the best possible provision for the introduction of authoritative Indians into the Executive and to recognise that the British system is not the only model and, indeed, that there are many federal systems in the world which differ from the British model because they have been suitably developed according to the needs of their own areas and populations. It would, we are convinced, be a grave mistake to attempt to reconstruct the Central Government of India on the lines we have suggested for the provinces. At any rate, it would be premature to do so now. The ultimate form which the Government of India will take cannot possibly be precisely determined in present circumstances. It must be allowed to grow in the light of the principles we have set out in Part I of this volume.

CHAPTER 3.—INFLUENCE OF CENTRAL LEGISLATURE ON EXECUTIVE ACTION AND POLICY.

174. Chapter 1 of this Part of our Report describes our plans for the reconstruction of the Central Legislature, consisting of the Council of State and the Federal Assembly, and Chapter 2 discusses what changes should be introduced into the Government of India. We must now explain what would be, in our view, the constitutional relation between the Governor-General in Council and the Indian Legislature, and how the system as a whole would work in practice.

Let us first recapitulate, and then consider probable criticisms. The answer to them will best bring out the constitutional conception which we wish to develop. The Members of the Government of India will continue to sit in one or other of the two Chambers, and will there expound and defend the policies for which they are jointly responsible. The new Federal Assembly will have the same powers and will follow much the same procedure as its predecessor. It will also exercise new powers in relation to the imposition of taxes for the purposes of the Provincial Fund. The large majority of its members will, as now, be elected, though elected by a different method, and if Government is to receive the support of the Assembly, it must be because a considerable fraction of these elected members support it. The Legislature will, as now, have the opportunity of voting upon proposals for central taxation put before it by the Finance Member, and will have a considerable range of powers in the granting of supply. Certain heads of expenditure will continue to be non-votable, and powers of certification and restoration will remain in the hands of the Governor-General.

Two Probable Criticisms.

175. A central constitution such as we have outlined is likely to be exposed to two main criticisms. We propose to state and deal with both. First, it will be said that the experience of the last nine years has proved the objections to a system according to which a Government whose official supporters are in a minority is faced with a majority of elected members who may criticise and obstruct, but cannot, by defeating the Government, compel the Government to be changed. Secondly, it will be pointed out that, while we are proposing a substantial advance towards complete "responsibility" in the provinces, and contemplate that provincial Ministers will be dependent upon the support of provincial legislatures, we are not putting forward a corresponding plan for the Centre. Our general answer to both these criticisms has been, in effect, given in Part I of this volume, where we set out the principles of our scheme; but we will here re-state our reasons plainly.

No Retrogression at the Centre.

176. In the first place we must point out that, while we are quite unable to go further, we have in fact proposed a scheme for the Central Government which is less rigid than that contained in the present Statute, and satisfies much more fully the condition which is fulfilled by all forms of progressive constitution in the British Empire, in that it contains within itself the opportunity for growth and development.

The difficulties of carrying on government when a legislature with such wide powers contains an elected majority free to oppose the proposals of the Administration are undeniable. The Montagu-Chelmsford Report, as we have pointed out in our first volume†, proposed that, if the Government failed to get the support of the Lower House for proposals which it regarded as indispensable, it could none the less ensure that they were adopted by getting, as an alternative, the approval of a Council of State in which Government could count on a majority. It was the Joint Select Committee of both Houses of Parliament which recommended the change that has resulted in strengthening the position of the Assembly in relation to the Executive to a greater extent than was originally intended. At the same time, it altered the scheme of the Joint Report by providing that the Indian Budget should be submitted to the vote of the Assembly. This situation has existed ever since the Government of India Act came into operation; the Lower House in the Indian Legislature has become the most important organ of Indian political opinion; and as a matter of practical politics, there can be no question of going back to a previous stage by providing for an official majority or by reducing the powers of the Assembly. What we have to consider is how this central organ may be developed, and how the machinery by which Indian political opinion expresses itself and exerts its influence at the Centre may be improved. We will show, later in this chapter, how great this influence will be, and how mistaken is the view that under such a system the course of Government policy is not profoundly affected by the action of the Legislature.

Degree of Advance possible at the Centre.

177. While there can be no going back from the present degree of responsibility at the Centre, we are equally clear that it would be impracticable and undesirable to introduce the principles of dyarchy into the Central Executive. We consider that responsibility for the subjects which must necessarily be the province of a Central Government cannot be departmentalised. Dyarchy was adopted in the provinces as a step on the road towards parliamentary institutions; but we do not think that the evolution of the constitution at the Centre will necessarily follow this

† Vol. I, para. 174.

path. It appears to us that there is a serious danger of development at the Centre proceeding on wrong lines if the assumption is made that the only form of responsible government which can ultimately emerge is one which closely imitates the British parliamentary system. It is a feature of that system that the Government is liable to be brought to an end at any moment by the vote of the legislature. This arrangement has been arrived at in our own country as the result of a long constitutional development. It is intimately bound up with the adoption of an organised and stable party system, both in the constituencies and in the House of Commons, and depends for its success on the cohesion of groups of representatives and on the reality of their intimate and continuous contact with electors—a thing that is made possible by the small size of the country. It is not an inevitable result of the adoption of representative democracy and, indeed, is hardly found outside the English-speaking world. It seems to us most unlikely that if Britain had been the size of India, if communal and religious divisions so largely governed its politics, and if minorities had had as little confidence in the rule of others as they have in India, popular government in Britain would have taken this form.

In saying this, we are not in the least denying the propositions of the Preamble; we are merely pointing out that the British model is not the only form of responsible government. It is possible to conceive of various methods whereby the Executive will become effectively responsive to the will of the Indian people. But it is too soon to say with certainty which line of advance will be adopted. In the meanwhile, we have proposed that certain steps should be taken which are necessary before the final shape of the Central Government can be evolved. We propose to reconstitute the Government of India on a federal basis because we believe that, in dealing with a country so large and varied as India, ultimate unity can only be attained by allowing the utmost diversity in the constituent elements. This is not a denial of the aspirations of the Indian people. We believe that the forces of nationalism in India should be turned into this channel, for federalism is a form of nationalism.

It is necessary to take a long view of the development of Indian self-government. We can understand the impatience of those who press for further immediate advance, but the cause of the delay at the Centre does not lie in anything else but the nature of the problem to be solved. We hope to see all India one day united as a great federation of units, each with a life of its own, and each with political institutions suitable to its needs. But a premature endeavour to introduce forms of responsible government at the Centre before the conditions for its actual practice have emerged would in the end result not in advance but in retrogression. In the meantime we have recommended certain preliminary steps. We have proposed to transform the Assembly and the Council of State into bodies representing the provinces;

we have rearranged finance with a view to meeting provincial needs; we have introduced such elasticity as we can into the structure of the Central Government; we shall point out how one of the obstacles to constitutional progress might be avoided by putting the Army in India on a new basis; and we have carried the development of self-government in the provinces to the furthest practicable point. With the same object, we are going to suggest some new constitutional machinery which may enable the Indian States to become more closely associated with British India for the purpose of dealing with matters of common concern. We cannot do more, and no scheme that has been presented to us, or that we have had the opportunity of examining, has shown how more could be done.

Contrast between Provinces and Centre.

178. We are making a great experiment in the provincial sphere. Whatever may have been the defects of the dyarchic constitution which the Montagu-Chelmsford Reforms established in the provinces, it had this important result that it has been possible to experiment in the application of the principles of British democracy under the varying conditions obtaining in nine provinces. We are proposing to carry that experiment further by abolishing dyarchy, by establishing responsible unitary Governments in the provinces, and by giving greater elasticity to the provincial constitution so as to allow political institutions to be modified in accordance with the will of the peoples of the provinces.

The British constitution is not a panacea which can be used at all times and in all places. It is not a perfect instrument of democratic government finished and complete. It is a living organism which even to-day is being insensibly modified in accordance with the changing conditions of the times. Its supreme merit is just this adaptability. Many countries have attempted to embody its principles in written instruments, but in the result something entirely different has emerged. A mode of government must in fact be the expression of the political instincts of a people. The British system is not an easy one to imitate, for its success depends on a number of factors which cannot be introduced into the provisions of a Statute. In other countries, where a system of shifting groups obtains, the constitutional position of the Government is in effect quite different from that of the Cabinet in the British system. It will, we think, be some time before it is possible to judge how far it is likely that the party system obtaining in Britain will reproduce itself in the provincial legislatures. It may be that a system of groups may be found to be more consonant with Indian ideas. The point which we would stress is that it is on

practical considerations such as these that the actual form of responsible government in India must depend.

It is, we believe, right that Indians should have the fullest possible opportunity of applying British parliamentary methods in the provinces, but the trial must be made under fair and reasonable conditions. As we travelled from province to province throughout India, we heard evidence from men who differed widely in language, race, religion and political outlook. The views which they put before us as to the right course to be adopted in framing the provincial constitution of India were naturally of great variety, but on one point almost every witness agreed. They urged, or conceded, the need for safeguards. All, while demanding advances in the provinces, were insistent on the need for a stable Central Government. We believe that these witnesses, who had been working the Reforms in the provinces, took a sane and sound view of the situation. They realised that an element of stability was needed in the Indian body politic, while the provincial councils were learning by experience to bear the full weight of new and heavy responsibilities.

Extent of the Influence of the Central Legislature.

179. How great is the power already possessed by the elected representatives in the Central Legislature is not always realised. In the sphere of legislation, not only can Government measures be amended by the Legislature, but if they are to be carried into law by that body, they must commend themselves to the members as intrinsically desirable and reasonable. The Government commands to-day only a fraction of the votes in the Assembly, and our present proposals for the composition of the Federal Assembly will give them an even smaller proportion in that body. Therefore, unless the Governor-General is prepared to resort to his special powers, the Executive cannot force distasteful measures through a reluctant House. This has its effect not only on the attitude which Members of Council must adopt towards the Assembly and the Council of State, but on the decisions of the Executive as to what measures it will introduce. One result of this is that the influence of a private member in the Assembly is far greater than in the House of Commons. Any student of the course of events at the Centre during the past ten years will be struck by the fact that it has only been on very few occasions that the Governor-General has had to utilise his special powers of certification. Yet the output of legislation has been considerable and varied. It has dealt with matters affecting great issues. Yet these measures, introduced by a Government which is in a minority in the Legislative Assembly, have been passed into law. It is therefore clear that the legislative programme of the Government must have been framed with a constant regard to the state of opinion in the legislature.

Again, the financial powers of the Assembly are very considerable. There can be no doubt that in matters such as the imposition of tariffs and in general financial policy, the Assembly has profoundly influenced the Executive. In most of the instances in which the Governor-General has had to exercise his powers of restoring rejected grants the Assembly did not object to expenditure on its merits, but was using the occasion for a constitutional protest.

We do not think that sufficient attention has been given to the very real influence exercised by the Central Legislature over the activities of the Central Executive in all fields of administration and legislation. Indian politicians have been prone to concentrate rather on constitutional theory than on the actual operation of the Indian constitution in practice. We believe that this influence will steadily increase. We consider that the replacing of the present slender connection of a member with his constituency by a close bond with the provincial council will add weight and authority to the expression of opinion in the Federal Assembly, and that the Central Executive will to an increasing degree be responsive to the will of the federal representatives.

One of our number wishes to call attention to one method which might be developed with a view to bringing the Executive and the Federal Assembly into closer touch. The complaint is often heard in the British Parliament that unofficial members have little chance of making themselves acquainted with the actual work of the administration. Debates in Committee of Supply and Questions to Ministers, while affording opportunities for criticism and for ventilating grievances, offer little scope for constructive suggestion. Even criticism is necessarily ineffective unless based on accurate knowledge. The British parliamentary system does not afford to the ordinary member that fruitful contact between elected representative and trained administrator which is so marked a feature of local government. This criticism applies still more forcibly to the position at the Centre in India. A development of the Committee system is one of the ways suggested whereby this might be effected. The Report of the Machinery of Government Committee of the Ministry of Reconstruction (Cmd. 9230 : paras 52-54) states the case for this plan.

CHAPTER 4.—RELATIONS BETWEEN CENTRE AND PROVINCES.

180. The character of a federal constitution is, of course, conditioned by the nature of the relations between the Centre and the component parts. Since the ultimate form of the Indian federation cannot yet be settled, or even be predicted with confidence, it follows that any proposals regarding the relationship between the Centre and the provinces suggested for immediate adoption cannot, any more than proposals as to the constitution of the Central Government itself, be regarded as indicating the final form which it is likely to take. It is, nevertheless, important to devise the immediate structure in such a way as to avoid placing any unnecessary obstacles in the way of any natural future developments.

Control of Governors by the Centre.

181. In Part II, Chapter 1, we have recommended that there should rest in the hands of a provincial Governor certain limited overriding powers, and also a further emergency power, if the normal provincial constitution should break down, of resuming control over the whole provincial field. It is obvious that the Governor cannot be left completely uncontrolled in the exercise of these special powers. Since he is, in wielding them, not constitutionally responsible to the provincial legislature, he must be responsible to some other authority, and that authority should ultimately be Parliament. We recommend, accordingly, that the Governor should be subject to the superintendence, direction, and control of the Governor-General, and, through him, of the Secretary of State, who is of course answerable to Parliament. The central power of intervening in case of absolute necessity through the Governor (as distinct from the provincial Government of which he is the head) in the internal administration of a province, for purposes which may in some instances concern solely that province and not the rest of India, should not, we think, vest in the Governor-General in Council. It may well be that the Governor-General, in using his power of superintendence, direction, and control over the Governor, will desire to have the advice and support of his Council; but we think it would be impeding future developments on federal lines if a power of intervention in affairs affecting solely one province were left with the Central Executive. We are unable to forecast at present what future developments there may be in the Central Government, but we consider that it is desirable to make constitutional arrangements now in consonance with the possible future. We do not consider that, when the process of federation is complete, there should be a power of intervention in purely internal affairs of a federal unit by a representative body, but we think that the reserve power should be in the hands of the Governor-General as representing the Crown.

Powers of Central Government over Provincial Governments.

182. In the preceding paragraph we were concerned solely with the question of the supervision of Governors in the use of their special and emergency powers. We now consider what should be the normal powers of the Centre over the provincial Governments. Without attempting to frame provisions in language in which they could be enacted, we recommend that the superintendence, direction, and control of the Governor-General in Council over a provincial Government should be exercisable only over a field defined by the following categories :—

(1) Safeguarding of administration of central subjects.

(2) Matters which may, in the opinion of the Governor-General, essentially affect the interests of any other part of India.

(3) Supply of information on any subject.

(4) Raising of loans.

(5) Employment of All-India Services in the province.

(6) Safeguarding of Imperial interests.

(7) Questions arising between India and the other parts of the Empire.

(8) Implementing international obligations.

Though these would, we think, be the main categories, it might, of course, be found, when the task of drafting provisions on these lines was being undertaken, that there were some specific matters, not covered by the above, which ought to be included. The definition of the field should not be in the Act itself, but in statutory rules which should be amended only by resolution of both Houses of Parliament.

The Secretary of State in the exercise of his general powers of superintendence, direction and control of the Governor-General in Council would, of course, be enabled to issue orders through that authority on provincial questions falling within the field indicated above.

Under the present "Relaxation of Control Rules" applying to the Secretary of State, and corresponding provisions in Devolution Rule 49 applying to the Governor-General in Council, the directing powers in transferred subjects which fall within categories equivalent to the sixth and seventh mentioned above are reserved to the Secretary of State only; but we think that in future these should also rest with the Governor-General in Council, subject, of course, to the Secretary of State's control.

183. The absence of any provision in the existing Relaxation of Control Rules corresponding to the eighth category above is clearly an anomaly, though in practice difficulties arising from its absence seem to have been successfully overcome (see Vol. I, p. 232).

The fourth category is a matter to which we return later in this chapter. The third, though an obvious provision, we regard

as of the first importance. However great the independent powers of the provinces may be, it is essential that there should be a nerve centre for the whole.

The second category is, of course, the one that raises most difficulties. We have deliberately framed it in very broad terms, which we should hesitate to employ if the decision as to its scope, in any given instance, was not to be left to the personal and entire discretion of the Governor-General. A provision of such a kind would be unworkable if it had to be subject to legal interpretation. It is clear that the Governor-General in Council's rights of control over a provincial Government under this second provision might occasionally overlap the Governor-General's superintendence, direction and control of the Governor in the exercise of his special powers, as for example if there occurred a breakdown of law and order in a province sufficiently serious to affect other parts of India. There is, we think, no objection to such overlapping of the spheres of control. Coordination would rest with the Governor-General.

Co-operation between Central and Provincial Governments.

184. It is, however, not for such purposes as these that the provision in the second category is primarily designed. Its main intention is to ensure co-operation between the various provinces in matters of administration which, though not central subjects, may be of vital concern to more than one province, or to India as a whole. We may recite as examples measures for fighting famine or epidemic diseases (whether among men, animals or crops), trunk road schemes and irrigation projects affecting more than one province.

In Chapter 4, Part III, of our first volume we have described how coordination in matters which fall within the present transferred field has hitherto been achieved. It has mainly been accomplished by Ministers agreeing to confer together with the central authorities, or agreeing to set up an inter-provincial body of some kind. This seems to us exactly the line of development which should be fostered, as we explain more fully in the next paragraph. Co-operation should be secured by the general goodwill of the Governments concerned, rather than by the imposition of specific central control. Nevertheless, we think it essential that the Central Government, in dealing with questions which vitally affect more than one province, should in the future have a more authoritative position than it now enjoys, constitutionally, in the transferred sphere.

Co-ordination of "Nation-building" Services.

Council of Agricultural Research.

185. We now turn to the question of co-operation between the Centre and the provinces, and between province and province, in certain subjects which are entrusted to the legislative and administrative control of the provinces and which, though they

are indeed of common concern, are not such as to call for any constitutional power of direction and control from the Centre. Agriculture, Education and Medical services—matters of the greatest possible importance for the future of India—demand such co-operation. An admirable example of the kind of methods which we think should be adopted is furnished by the recent institution of the Council of Agricultural Research.

Consequent upon the recommendations of the Linlithgow Commission, a Council has been set up with the object of co-ordinating agricultural policy throughout British India. The Commission expressed a hope, which we share, that the manner in which the Indian States could best be brought into this research organisation would receive early and careful consideration. The constitution and functions of this body are fully explained in the Resolution of the Government of India which we print as an appendix* to this chapter. This Central Council has both executive and advisory functions for the respective discharge of which the Council is organised into (1) a smaller Governing Body and (2) a larger Advisory Board. The executive functions discharged by the Governing Body are mainly concerned with the administration of funds contributed by the Central Government or by other interests for the development of agriculture in the widest sense of that term. The principal duty of the Advisory Board is to examine all proposals in connection with agricultural research and development which may be submitted to the Governing Body and to report on their feasibility.

The salient features of this organisation are :—

(1) no control over provincial policy other than the power of assisting by grants of money provincial schemes which are considered to be deserving of support;

(2) coordination of policy—the establishment of a partnership of ideas, not only between the Governors' provinces and the Central Government, but between the provinces themselves;

(3) provision for the distribution of central funds by agreement between the Central Government and the provinces through their respective representatives on the Governing Body;

(4) machinery for regular consultation with a view to ensuring that schemes can be proposed from the Centre as well as locally, that all schemes once started will be carried through and that the experience of all parts of India shall be pooled and rendered easily accessible.

Education and Medical Bureaux.

186. Again in the field of education we believe with our Auxiliary Committee on Education† that it would be very valuable

* Appendix IX, p. 157 below.
† Ed. Report, p. 277.

to set up an active Central Bureau of Education which would give information and advice to the provincial administrations and would help to make everywhere available the results of experiments and practice in educational method and organisation. What is now done by the Federal Government of the United States in this respect may well be studied and turned to account. The Central Government will continue to be primarily responsible for education in some of the minor administrations and will also assume similar responsibility in the excluded areas, but its outlook should be wider than this, in order that the standards of its administration in those parts of British India may benefit by the example of the best that the provinces can do. While it should endeavour to raise the standards in the areas under its own immediate administration, it should also act as a clearing house for ideas and as a medium for the diffusion throughout India of new and fruitful methods. For these purposes a central educational bureau should be of great utility. The Quinquennial Review now published by the Central Education Department is an example of the value of coordinating information, but what we have in mind goes beyond this and is not limited to the collection of statistics. It seems to us that there is everything to be gained by using such encouragement and influence as a central organisation may exert for the purpose of advancing and widening the education and training of the Indian peoples. This principle may be specially useful in connection with European education and also with that of Anglo-Indians, whose future prosperity so largely depends upon good educational equipment. This particularly concerns the Centre in view of the special association of Anglo-Indians with some of the central services. We think also that some central coordination would be valuable in respect of the Indian universities, both unitary and affiliated, in order to counteract the tendency towards extreme provincialisation.

In the same way, we are convinced that the improvement of public health in India, the increase in the supply of trained nurses and doctors, and the reduction of infant and maternal mortality might be materially promoted if there were a wider central organisation staffed by competent officials, both men and women, whose business it would be to coordinate and encourage the work that is so much needed in these directions. Such a bureau would have functions which would extend beyond the range of the Central Medical Research Institute which was recently recommended by Sir Walter Morley Fletcher's Committee.

The Question of Financial Assistance.

187. Mutual assistance in such fields as agriculture, education and public health, based primarily on interchange of ideas and services, can only come about by the voluntary participation of the different units concerned. It seems to us that joint effort

is likely to be most fruitful if it takes the form of establishing, without imposing control over the provinces, central bodies resembling the Agricultural Council, though of course details of structure might vary considerably in each case.

We would like to see these Central bodies exercising, by means of advice and, if necessary, by the provision of financial assistance, some influence over recruitment for the higher personnel of these services. There is a natural tendency for a provincial Government to restrict the recruitment for its services to the province. But India needs the very best, and it will, in our opinion, be a great opportunity lost if the provinces do not avail themselves of the prestige which these central bodies should acquire in order to attract to their service men and women of the highest qualifications available. With the great development of the scientific services which is now taking place in other parts of the Empire, India will need to make known by every means at her disposal the unrivalled interest and importance of the scientific problems requiring investigation within her borders.

The view is authoritatively held in India, on the construction of the present Devolution Rules, that it is not permissible to incur expenditure from central revenues on provincial subjects, or to make assignments from central to provincial revenues for expenditure on a provincial subject, except in so far as such expenditure represents payment for services rendered by the provincial Government. There is no occasion for us to go into the technical justification for this view, but we are strongly of opinion that so rigid a division between expenditure on central and provincial subjects should be modified. We recommend that it should be rendered constitutionally possible, under suitable restrictions to assist provincial objects from central funds and *vice versa*. This will facilitate the operation and usefulness of such central bodies as we have been describing, which will serve the ends both of the provinces and of the Centre.

Financial Relations.

188. We now turn to the question of finance in a wider aspect. We have already explained in Chapter I of this Part† that we accept the principles of Mr. Layton's scheme for the division of resources between the Centre and Provinces, and that we recommend, as part of the necessary machinery, the setting up of a Provincial Fund. The provisions governing the working of the Fund will be an experiment in Indian federation which we consider to be of great importance. The plan may, if successfully worked, be the precursor of further developments on similar lines. The scheme for allocation of resources provides *inter alia* for the division, on certain principles, of the revenue from income tax between the Centre and the provinces.* To this extent it involves a definite departure from the plan in the

* See Part VIII, Chs. 5-7. † Paras. 158-159, and 163.

Montagu-Chelmsford Report which sought for constitutional reasons to abolish all "divided heads" of revenue. The method of division now proposed will not, however, enable the Central Government to exercise control over the finances of the provinces and is not, therefore, open to the objections to "divided heads" urged in the Joint Report.

Financial Stability of Provinces.

189. The fourth category mentioned in paragraph 182 above is also concerned with finance. In our proposals for the provincial constitution we have suggested no safeguards on the financial side, except for the special purpose of enabling the Governor to secure supply over the limited field in which he holds in reserve special powers or for carrying out directions which he may receive from the Centre. More than one of the schemes propounded to us involved giving the Governor special powers to secure the "financial stability" of the province. We consider that so wide a power of intervention by the Governor would hinder the growth of responsibility. We think, however, that a certain corrective power should reside in the Central Government through a right to control borrowing by a provincial Government. Due coordination of borrowing by the various Governments in India is, and will remain, as Mr. Layton emphasises*, very important; but, beyond this, we think that the Central Government should be in a position either to refuse a loan required by a province to meet a deficit, or, if need be, to impose discriminatory rates of interest in respect of any such loans which it grants. It is obvious that this power would not in itself suffice to ensure financial stability, since the seeds of financial embarrassment might have been planted long before the province was actually faced with a deficit. But the existence of such a power should not be without effect; and we are unable to propose more stringent powers which would not involve too great an interference with the provincial Governments. We would leave the constitutional power of control of the Central Government in the matter of loans quite general, though we should not wish it to be used as a means of dictating the purposes for which capital expenditure should be incurred by the provinces. Provided that the objects for which the money is required come within the terms of the regulations relating to provincial loans, the approval of the Central Government should be dependent primarily on considerations relating to the monetary and credit situation.

We concur generally in Mr. Layton's observations in regard to provincial accounts, to the keeping of provincial balances and to the status and functions of the Auditor-General.

Central and Provincial Subjects.

190. The present classification of central and provincial subjects for the purpose of distributing administrative responsibility

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* Part VIII, para. 311.

seems to us to be generally satisfactory, although experience may show that changes in the rules may be necessary from time to time. But there is at any rate one important matter in which we think an alteration is necessary now. The abolition of dyarchy might entail the breaking of the essential liaison between the Central Government and the provinces in respect of that branch of the provincial police which works in concert with the Central Intelligence Department. We would therefore recommend that the clause assigning Police to the provinces in item 32* of the schedule to the Devolution Rules should be qualified by the addition of the words "subject in the case of the C.I.D. to such conditions regarding organisation as the Governor-General in Council may determine."

We also wish to call attention, in connection with the constitutional changes which we are proposing, to the distribution of functions in regard to industrial matters between the Centre and the provinces. Under the Devolution Rules, factory legislation is primarily a subject for the Central Legislature, and so is labour welfare. On the other hand, in the administrative field, these matters are provincial and have hitherto been reserved subjects. So long as this situation continues, the Central Government, through its relation with the reserved side of the provincial administration, has power to influence the administration of the factory law to the extent it thinks proper (see Volume I, paragraph 258). With the abolition of dyarchy, this position would be changed. But it seems to us that for certain purposes the Central Government will still require to have power, in this sort of field, to secure cooperation from provincial Governments and coordination of effort. One important instance of this will arise out of international obligations entered into at Geneva on labour questions (see the eighth category in paragraph 182 above). We imagine that the Report of Mr. Whitley's Commission will deal with this class of subject fully, and, if our proposal that dyarchy should be ended is approved, it will be more appropriate for that expert body to make recommendations as to consequential adjustments between the Centre and the provinces in the field which it is specially investigating.

APPENDIX IX.

Resolution of Government of India (Department of Education, Health, and Lands) of 23rd May, 1929, Establishing the Council of Agricultural Research.

In Chapter III of their Report, the Royal Commission on Agriculture in India held that agricultural research in this country is still in its infancy; that, however efficient the organisation which is built up for demonstration and propaganda, it cannot achieve a full measure of success unless it is based on research; that lack of co-ordination in agricultural research has prejudicially affected progress;

* See Vol. I, p. 130.

that there is a wide field open for the co-operation of the Government of India and of provincial Governments in regard to agricultural research; and that it is the duty of the Government of India, in the discharge of their ultimate responsibility for the welfare of the vast agricultural population of this country, to advance research in every way possible without encroaching upon the functions of provincial Governments in that sphere.

2. The Royal Commission, after discussing possible methods by which closer contact might be established between scientific investigators working in institutions under the Central Government and investigators employed under provincial Governments, recommended the establishment of an Imperial Council of Agricultural Research to which the Imperial Agricultural Research Institutions and the Provincial Research Institutions would stand in exactly the same relation. The duties of the Council would be :—

(*a*) The promotion, guidance and co-ordination of agricultural and veterinary research throughout India. The Council would not, however, maintain research institutions directly under its control, nor would it employ its own staff of experts. It would merely determine whether a particular scheme of research was of all-India or of local importance and whether it could best be carried out at an Imperial or provincial research institution or by some other agency such as a University or a private individual and would then, after subjecting the scheme to examination by its expert advisers, make such grant as it considered suitable.

(*b*) The training of research workers under a scheme of research scholarships or in other ways.

(*c*) The collection and dissemination of information in regard not only to research but to agricultural and veterinary matters generally.

(*d*) The publication of scientific papers, etc.

3. The Royal Commission recommended that the Council of Agricultural Research should consist of the following members :—

(*a*) Three whole-time members appointed by the Government of India, of whom one should be an experienced administrator with a knowledge, if possible, of Indian conditions; one should be an eminent scientist who had specialised in some branch of crop production and one should represent the interests of animal husbandry including animal nutrition and veterinary matters. It was suggested that the administrator should be the Chairman of the Council.

(*b*) Thirty-six other members, *viz.*, the Director of the Agricultural Research Institute at Pusa; the Director of the Imperial Institute of Veterinary Research at Muktesar; one representative of the minor administrations under the Government of India; one non-official elected member of the Council of State; two non-official elected members of the Legislative Assembly; one representative each of the European and Indian business communities; three representatives of Indian Universities nominated by the Inter-University Board; one representative of the Indian Central Cotton Committee; one joint representative of the Indian Tea Association and the United Planters' Association of Southern India; the nine Directors of Agriculture and the nine Directors of Veterinary Services in the major provinces and five other non-official members nominated by the Government of India on the recommendation of the Council by reason of their scientific or other special qualifications.

The Royal Commission recommended that the Council should constitute sub-committees to deal with special activities. They further recommended that provincial Governments should establish committees to work in close co-operation with the Council and to assist in maintaining touch between that body and agricultural activities in the provinces. They considered that provincial Governments should have full discretion regarding the constitution of the provincial committees.

4. As regards finance, the Royal Commission held that, only if the Council were placed in a secure financial position beyond the possibility of being affected by financial vicissitudes, would it be able to embark upon a programme of ordered advance. They, therefore, recommended that an agricultural research fund should be constituted by a grant of Rs. 50 lakhs from central revenues to which

additions should be made from time to time as financial conditions permitted. They also recommended that the Council of Agricultural Research and the Agricultural Research Fund should be constituted by an Act of the Imperial Legislature.

5. The Government of India have given their most careful consideration to the proposals of the Royal Commission and are of opinion that they are on the whole admirably designed to secure the objects for the attainment of which the establishment of the organisation outlined above is recommended. They feel, however, that the composition of the Council and the method of financing it proposed by the Royal Commission might with advantage be modified in certain respects. It appears to them that a Council of thirty-nine members would be too large to be really effective and that it is not desirable that the Legislative Assembly should be deprived of its normal constitutional control over an activity which affects the staple industry of this country as it would be, if the method of financing the Council proposed by the Royal Commission were adopted. To meet these objections, the Government of India have decided to make the changes in the structure of the Council and the method of financing it which are explained in the subsequent paragraphs of this Resolution.

6. The central organisation will be divided into two parts, with executive and advisory functions respectively. The executive part, which will be known as the Governing Body, will have the management of all the affairs and funds of the Council subject to the limitations mentioned in paragraph 7 below. This body will consist of the Honourable Member of the Governor General's Executive Council in charge of the portfolio of Agriculture, who will be *ex-officio* Chairman, the Principal Administrative Officer of the Council who will be appointed by the Government of India and who will be *ex-officio* Vice-Chairman, one representative of the Council of State, two representatives of the Legislative Assembly, one representative of the European business community elected by the Associated Chambers of Commerce of India and Ceylon, one representative of the Indian business community elected by the Federation of Indian Chambers of Commerce and Industry, one representative nominated by the Government of each major province, two representatives elected by the Advisory Board, and such other persons as His Excellency the Governor General in Council may from time to time appoint.

At the Conference convened by the Government of India in October last to consider the Report of the Royal Commission, the Provincial Ministers of Agriculture expressed the view that the provincial representatives on the Governing Body should be the Ministers of Agriculture. This proposal has been referred to Provincial Governments for opinion and has met with general acceptance. The Government of India entirely agree that the presence of the Provincial Ministers of Agriculture on the Governing Body will contribute very materially to the successful working of the Council. They consider it desirable however that provision should be made in the Rules and Regulations of the Council permitting a Provincial Government to nominate a representative to attend any meeting of the Governing Body at which the Provincial Minister of Agriculture is unable to be present.

The Honourable Mr. V. Ramadas Pantulu has been elected by the Council of State and Mian Muhammad Shah Nawaz and Chaudri Mukhtar Singh have been elected by the Legislative Assembly as the representatives of those bodies on the Governing Body of the Council of Agricultural Research. The Associated Chambers of Commerce of India and Ceylon and the Federation of Indian Chambers of Commerce and Industry have elected Sir Joseph Kay and Mr. Walchand Hirachand, C.I.E., respectively, as their representatives on the Governing Body.

The functions of the Advisory Board will be to examine all proposals in connection with the scientific objects of the Council which may be submitted to the Governing Body, to report on their feasibility and to advise on any other questions referred to it by the Governing Body. It will consist of all those whose inclusion in the Council was recommended by the Royal Commission with the

exception of the representatives of the Central Legislature and the representatives of the European and Indian commercial communities who will now find a place on the Governing Body. It does not appear necessary that the latter should also be members of the Advisory Board which, under the division of functions explained above will be a body of experts. In view of their exclusion from the Advisory Board, the Government of India, after consultation with Provincial Governments, consider it desirable that the scientific and university representation on the Board should be increased and that, subject, where necessary to the acceptance of the invitation to elect representatives to the Board, it should be composed as follows :—

(1) The Vice-Chairman of the Council.

(2 and 3) Two whole-time expert advisers appointed by the Government of India.

(4) Director of the Pusa Research Institute.

(5) Director of the Imperial Institute of Veterinary Research, Muktesar.

(6) Director of the Indian Institute of Science, Bangalore.

The Directors of Agriculture in

(7) Madras.
(8) Bombay.
(9) Bengal.
(10) The United Provinces.
(11) The Punjab.
(12) Burma.
(13) Bihar and Orissa.
(14) The Central Provinces.
(15) Assam.

Representatives of the Veterinary Department in

(16) Madras.
(17) Bombay.
(18) Bengal.
(19) The United Provinces.
(20) The Punjab.
(21) Burma.
(22) Bihar and Orissa.
(23) The Central Provinces.
(24) Assam.

(25) A representative of minor administrations under the Government of India nominated by the Government of India.

(26) A representative of the Forest Research Institute, Dehra Dun, nominated by the Government of India.

(27) A representative of the Co-operative Movement nominated by the Government of India.

(28) A representative elected by the Indian Research Fund Association.

(29 to 32) Four representatives of Indian Universities elected by the Inter-University Board.

(33) A representative elected jointly by the Indian Tea Association and the United Planters' Association of Southern India.

(34) A representative elected by the Indian Central Cotton Committee.

(35 to 39) Five non-official members nominated by the Government of India on the recommendation of the Council on the ground of scientific knowledge or other special qualifications.

And such other persons as His Excellency the Governor General in Council may from time to time appoint.

Mr. P. H. Carpenter, Chief Scientific Officer, Indian Tea Association's Experimental Station, Tocklai, Assam, has been elected as their representative on the Advisory Board by the Indian Tea Association and the United Planters' Association of Southern India. The Government of India have nominated Mr. G. K. Devadhar, C.I.E., President, Servants of India Society, Poona, as representative

of the Co-operative Movement on the Board. The names of the nominees of the Government of India to represent minor administrations and the Forest Research Institute, respectively, will be announced shortly.

The Principal Administrative Officer to the Council will be *ex-officio* Chairman of the Advisory Board.

All the other features of the Royal Commission's proposals for the organisation of the Council, *viz.*, the three whole-time officers of the Council, the sub-committees to deal with special activities and the provincial committees will remain.

As recommended by the Royal Commission, the duration of the appointment of members of the Council, other than the representatives of the Council of State and the Legislative Assembly and of those members who are appointed by reason of the office or appointment they hold, will be three years. The tenure of appointment of the Principal Administrative Officer and the two whole-time expert advisers will ordinarily be five years.

7. For the lump grant of Rs. 50 lakhs recommended by the Royal Commission, the Government of India have decided to substitute an initial lump grant supplemented by a fixed minimum grant annually. They have fixed the initial grant at Rs.25 lakhs, of which Rs.15 lakhs have been provided in the budget for 1929–30. Commencing from 1930–31, the annual recurring grant will be fixed at Rs.7.25 lakhs per annum, of which Rs.5 lakhs will be devoted to the furtherance of the scientific objects of the Council, and the remaining Rs.2.25 lakhs to the cost of its staff and secretariat. A sum of Rs.1.40 lakhs has been provided in the current year's budget to meet the cost of the staff and secretariat in this financial year. The provision in the current year's budget has been made with the approval of the Legislative Assembly and the grants to be made in subsequent years will also be subject to its approval.

The Council of Agricultural Research will have an entirely free hand in regard to the expenditure of the grants made to it for research purposes subject to the condition that it incurs no liability in respect of such matters as leave or pension contributions after the research for which the grant is given has been completed. In regard to the grant made to it to meet the cost of staff, establishment, etc., the Government of India have decided that, for reasons of administrative convenience, it should be in the same position as a Department of the Government of India Secretariat.

8. The broad outlines of the scheme were placed before the Conference of Provincial Ministers and other representatives in October last and met with general acceptance.

9. The Government of India have further decided that the Council should not be constituted under an Act of the Imperial Legislature as recommended by the Royal Commission but should be registered under the Registration of Societies Act, XXI of 1860. In order to comply with the requirements of that Act, a meeting of those who will constitute the Council will be convened at an early date to consider the terms of the Memorandum of Association and the Rules and Regulations which have to be filed with the Registrar of Joint Stock Companies.

10. Proposals have been approved by His Majesty's Secretary of State regarding the appointment of the Principal Administrative Officer, the two whole-time expert advisers and the Secretary to the Council. The Government of India hope shortly to be in a position to announce the names of the gentlemen appointed to the first three of these posts. The officer selected for the appointment of Secretary to the Council is Mr. M. S. A. Hydari, I.C.S., (Madras).

11. The Government of India trust that all Provincial Governments will take early steps to constitute provincial committees, on the lines suggested by the Royal Commission subject to such modifications as may be considered required in the light of local conditions, to work in co-operation with the Council of Research.

CHAPTER 5.—THE AUTHORITY OF GOVERNMENT.

The Need to Expound Government Policy.

191. We propose to devote a separate chapter to considering a feature in the general Indian situation which during our tours constantly struck us as remarkable and worthy of analysis, though it appears to have been little dwelt upon in connection with the constitutional developments of 10 years ago. We refer to the danger of undermining the authority of all government, and the loss of public confidence which would follow, if no effective steps are taken to make more widely known the explanation of official policy and to counteract the gross misrepresentations of Government action put forward with impunity by those who seek by every means to discredit it. We do not, of course, mean that Governments, whether in India or anywhere else, should not be criticised, or that vigorous attacks, however misguided they may appear to the authorities to be, should be suppressed or punished as long as the law of the land is duly observed. We mean that the Government case should not go by default; and that, in the public interest, citizens should not be led to believe that the authorities have no answer because as a rule they make none which reaches their ears. Let us consider how the present situation has come about and how, consistently with the preservation of all essential liberties, it might be improved.

Changed Relations between Government and the Indian Public.

192. In earlier days, Government in India could afford very largely to disregard attacks made upon it, because its position was that it took little part in argumentative debate, but issued its edicts, after taking counsel with such non-officials as it consulted, in accordance with its own judgment of what was best to be done. Permanent officials attended to their proper work of administration, and whilst, in deciding on the policy to be followed, the Government of India gave close attention to its probable reactions and watched any sign of discontent, it acted as a benevolent bureaucracy and was accepted as such. Even as late as the Morley-Minto Councils, the Government took up the attitude of an Executive which was willing to give ear to "additional" members of the legislature and valued their counsel, rather than the position of an Administration facing political opponents.

But now all this is changed. The Government has entered politics. It has to answer its critics on the floor of the House. Yet, although the Government case is given in debate, the absence of any effective publicity prevents its answer reaching the public outside. Those who are only familiar with the interplay of party politics at home may have a difficulty in appreciating that in India the sort of attacks which we are deprecating are not

directed against particular items of policy, but amount to the encouragement of an utter disregard of all the necessary rules of order which any civilized Administration must uphold. Our concern is not solely with the position of the powers that be, but with the consequences of this upon the peaceful administration of India in the future. This is a situation which, in the interests of good order and contentment, calls for remedy by any legitimate means. As things are, the most violent and mendacious statements are made with the knowledge that there will be little attempt to rebut them; hard-working and devoted officials, Indian as well as British, have the feeling that they will not be defended; and the public, which has inherited a tradition that Governments should be respected only so far as they exact respect, is misled.

The Importance of Effective Publicity.

193. We consider that the Governmental service of information needs to be greatly extended and improved. It is not fair to the large body of citizens who are being invited to assume wider responsibilities and who are passing through a period of training and political education to leave them ignorant of all but one side of the case. In the sphere of local government and in the work of the districts, contact with realities and appreciation of the reasons for action are easier to secure. But as regards all larger issues, and most of all in connection with the central administration, methods must, we think, be found to spread truthful information more widely. The need for a fair presentation of policy and facts is not confined to India. The misleading effect on public opinion throughout the world is no less important to be kept in mind. We have already described in Volume I the astonishing lengths to which a certain section of the Indian Press has gone in vilifying the Administration and attacking its servants.* It would be going beyond the scope of the task entrusted to us to attempt to suggest how the law of India on this subject should be framed or applied, but we must put on record our strong conviction that, unless a corrective is forthcoming, the orderly development of Indian institutions is put in jeopardy. The plant of self-government cannot be expected to exhibit healthy growth in an atmosphere so poisoned by misrepresentation.

Some Suggestions.

194. We think, therefore, that the question should be carefully considered by what means the widest publicity can be obtained for a reasonable account of the activities and decisions of the various Governments of India, and how best this information can be brought before a larger part of the Indian population. All over the civilized world new methods of disseminating news and views are being devised, and both in England and the

* Vol. I, paras. 287–8 and 461.

United States of America, as well as in many other countries, Governments make full use of them. Wireless broadcasting is a recent introduction into British India, and there are many difficulties to be overcome. It is the modern method by which both news and views can be presented under reasonable control from different angles. The cinema, again, is a frequent and popular feature in many of the great cities of India. Its use in connection with the subject which we are considering should not be overlooked. We have gathered the impression that more might be done in supplying the reputable news agencies with information.

These matters, however, are for others to determine; we are only concerned to point out the extreme importance that they should not be overlooked. It is very far from our purpose to suggest that freedom of criticism should be discouraged, nor do we imagine that discontent is to be removed by suppression. As we have said elsewhere, we are quite satisfied that the Government of India has gained by the increased opportunity for ventilating opinions in the legislatures; but that is quite a different thing from acquiescing in the dissemination of a version which has no resemblance to the facts. There is no part of the world in which more devoted work is done by civil servants than in British India, and the reputation of these officers, whether British or Indian, with the mass of the people stands deservedly high. It ought to be effectively sustained. Whatever the future may have in store for this vast sub-continent, it seems to us very necessary that greater facilities should be provided for spreading a true version of public affairs, and for sustaining the foundations upon which orderly government must in all circumstances depend.

Our colleague (Lord Burnham) has prepared a Note on "Means of Publicity" which is appended here.

NOTE ON MEANS OF PUBLICITY BY LORD BURNHAM.

It may be said that public opinion in India is, in the main, not more than that of the politically-minded sections of the population, whose views find expression in the Indian-owned Press. To repeat a phrase used in Vol. I of our Report, the "effective" circulation of Indian newspapers is much greater than the figure of their cash sales. Thus, both directly and indirectly, rumour and defamation obtain, by means of the Press, a very wide currency and credit throughout the whole of the sub-continent from all the centres where news is collected and published. The Government of India and all its agents are subjected to unceasing attack and vituperation which they endure in dignified silence, on the principle that it is not worth while to controvert or rebut them, because, in the long run, the facts

of the case will speak for themselves. I believe that this method of dealing with the matter cannot be further continued without grave risk and disadvantage to British rule in India.

Indian Governments circulate such news as they issue through the Associated Press of India, which has important duties to perform in the distribution of all official information to the Indian newspapers subscribing for its services. I think the time has now come when Indian Governments and their principal departments ought to have special bureaux for dealing with the supply of views, at the head of each of which should be a trained journalist, capable of handling "news and matter" in the most efficient way. It cannot be laid down how this should be done, but the question must be carefully considered by what means the widest publicity can be obtained for the correction of misstatements and for the dissemination of the truth in regard to the action of the Central and Provincial Governments.

It is not only the newspaper press that is involved in this effort to state the case for authority. In all the big cities the cinema is a frequent and popular feature of local life. Some effort should be made to use it for the purpose of expounding and illustrating the activities of the various branches of administration, such, for example, as education and agriculture. The use of the cinema on exhibition trains for the practical purpose of improving the methods of cultivating the land by the aid of scientific and mechanical processes has already been proved to be popular. The cinema is a commercial institution, and so whatever is done must, perforce, be on the lines of commercial development, but the existence of Government censorship ought to render it easier to make suitable arrangements with "renters and exhibitors" of film pictures in order to secure a fair proportion of instructional subjects on the screen.

Wireless broadcasting is of recent introduction into British India. From being a commercial undertaking in the hands of a public company it has now passed into the hands of the Government of India. There are still many difficulties, linguistic and atmospheric, which have to be overcome, before it will exercise anything like the same power in India that it does in Europe and North America, but its potentialities are very great. Provided a system of loud-speakers in the village meeting places can be set up—and the experiment is well worth trying—broadcasting may in time become the most powerful instrument that the State can command for explaining itself to the "common people."

So far I have been dealing with the necessity of providing greater facilities for spreading a true version of public affairs, but there is another side to the question. In the course of a speech made by Lord Canning to his Legislative Council on June 13th, 1857, he said, "I doubt whether it is fully understood or known to what an audacious extent sedition has been poured into the hearts of the native population of India within

the last few weeks, under the guise of intelligence supplied to them from the Indian newspapers. In addition to perversion of facts, there are constant vilification of the Government, false assertions of its purposes, and increasing attempts to sow discontent and hatred between it and its subjects." Since then there have been many Acts and Ordinances in British India for the regulation of printing presses and newspapers. The Indian Press Act of 1910, which was repealed in 1922, dealt not only with "incitement to murder and acts of violence but also with other specified classes of published matter including any words or signs tending to seduce soldiers or sailors from their allegiance or duty, to bring into hatred or contempt the British Government, any Native Prince, or any section of His Majesty's subjects in India, or to intimidate individual public servants or private individuals." (Indian Year Book, 1927.) In most of the Press codes of the civilised world, including France and Germany, after a general declaration in favour of the freedom of the Press provision is made for protecting persons in authority. In the case of both the above-mentioned countries newspapers are also obliged to publish corrections made by officials in answer to charges that may have been published in their own columns. I suggest that some such statutory power should exist in British India in order to afford adequate protection to public officials of all kinds, military and civil, in the discharge of their duties and thus both vindicate the integrity and honour of the public service and, what is still more important, prevent authority itself from being brought into general odium and despite.

PART V.—THE CONSTITUTIONAL PROBLEM IN RELATION TO THE DEFENCE OF INDIA.

195. In the first volume* of our Report we have given some account of the size, functions, and organisation of the Army in India. We have urged that the fundamental difficulties which the Indian military problem raises in the way of an advance towards the goal of Indian self-government should be honestly stated and squarely faced, and we have indicated that in this, the second, volume we should endeavour to deal further with the matter. It is, of course, a matter of supreme importance both to India and to Britain; and even though we may not succeed in proposing any cut-and-dried solution, we most deeply feel that much will be gained if the question is removed from the atmosphere of nebulous generality and is regarded as one which now calls for patient and practical analysis. It is useless for one school of thought to dismiss the whole subject by saying that the needs of India's defence constitute, and must always constitute, an irremovable obstacle in the way of the ultimate attainment of the purpose avowed in the declaration of 20th August, 1917. It is equally useless for another school of thought to treat the obstacle as though it did not exist, or could be easily circumvented by some generous declaration or some simple adjustment of detail. It is a cardinal problem, calling for the exercise of wise and informed statesmanship from the side of Britain and of India alike. And, as such, it needs, first and foremost, a due appreciation of the facts.

Reasons for a British Element.—(i) Frontier Defence.

196. Let us, therefore, first briefly resume what we have already elaborated in our first volume in some detail. The land frontier of India exposes her in the North-West to a constant and pressing danger of a magnitude which is quite without parallel in any other part of the Empire. For her defence against this menace, India relies on an Army which must be adequate in its higher command, staff, and organisation, sufficient in numbers, suitable in composition, and efficient in equipment and training. The evidence we have heard and what we have seen in the course of our Indian tours leave no doubt in our minds that, at least for a very long time to come, it will be impossible for the Army entrusted with the task of defending India to dispense with a very considerable British element, including in that term British troops of all arms, a considerable proportion of the regimental officers of the Indian Army, and the British personnel in the higher command. The rank and file of the Indian Army are not drawn from all over India, but from certain martial races who themselves largely represent former masters of parts of India, so that the problem of providing

* Vol. I, Part I, Ch. 10. "The Army in India."

them with a non-British command is of quite peculiar difficulty. We are pronouncing no judgment one way or the other on what is called the "eight units scheme," but, whatever the scheme, steady progress should continue to be made in the direction of an ultimate policy which contemplates the building-up of an entirely Indian force. But the issues involved are too vital, and the practical difficulties too great, to justify a precipitate embarkation on a wholesale process of substituting Indian for British personnel in the Indian Army. The Army in India is the only effective barrier between India and the dangers without her gates. We regard it as beyond question that, having regard to the Indian and Imperial interests involved, to the dangers to be faced, and to the composition of the force, Parliament cannot wash its hands of all responsibility for this Army. Nor do we see how, in that event, British officers and men could be recruited and called on to serve in India.

197. There is, therefore, a dilemma. The declaration of 20th August, 1917, stands in its full implication; the British people and the British Parliament have no thought of going back on it; yet here is the difficulty, which appears almost insurmountable, arising from the continued presence of the British element in the Army in India. It is impossible to relinquish control over an Army containing this element to Ministers responsible to any elected legislature. Such a transfer could only take place when no part of the Army in India consists of British officers or troops recruited by the Imperial Government. When this will come about we cannot say, but we see no prospect of its happening for very many years. Moreover, to any who are tempted to question this judgment or to regard it as unduly harsh, we would point out a second consideration. At the present moment, no Indian holding the King's commission is of higher army rank than a Captain—there are, we believe, 39 Captains of whom 25 are in ordinary regimental employ. Some of them are of an age which would prevent their attaining much higher rank, even if they passed the necessary examination, before retirement. Most of these have not been through Sandhurst, but got their commissions during the Great War. Now, however genuine may be the desire, and however earnest the endeavour, to work for this transformation, the over-riding condition so forcibly expressed by the Skeen Committee (whose members, apart from the Chairman and the Army Secretary, were Indian gentlemen) in the words "progress . . . must be contingent upon success being secured at each stage and upon military efficiency being maintained throughout "* must in any case render such development measured and slow. A Higher Command cannot be evolved at short notice out of the existing cadres of Indian officers, all of junior rank and limited experience. Not until the slender trickle of suitable Indian recruits

* Indian Sandhurst Committee Report, p. 23.

for the officer class—and we earnestly desire an increase in their numbers—flows in much greater volume, not until sufficient Indians have attained the experience and training requisite to provide all the officers for, at any rate, some Indian regiments, not until such units have stood the only test which can possibly determine their efficiency, and not until Indian officers have qualified by a successful army career for high command, will it be possible to develop the policy of Indianisation to a point which will bring a completely Indianised Army within sight. Even then, years must elapse before the process could be completed.

(ii) Needs of Internal Security.

198. In the sphere of internal security, also, the necessity for the presence of British troops, who are the neutral guardians of a peace so frequently assailed in recent years by bitter communal feuds and sectional commotions, raises another difficulty. These British troops, recruited by the Imperial Government, must be under the orders of those whom the Imperial Government controls. It appears to us that it would be impossible to contemplate the use of British troops to quell civil disturbances at the unrestricted bidding of Ministers popularly elected and answerable to popularly elected legislatures. We are quite confident that many Ministers would use such powers, if they had them, fairly and in the public interest; but we are also sure that they would be often exposed, whatever they did, to the charge of being influenced by communal prejudice. But, in any case, the British soldier has not undertaken service on this understanding.*

(iii) Obligations to Indian Princes.

199. Yet another difficulty which cannot be overlooked arises from the treaty obligations, incumbent on the British Crown, of supporting, in certain eventualities, the Rulers of Indian States. It is clear that it is impossible for the Crown, upon whom the States rely, to lose control of the instrument by the use of which in case of need the obligations of the Crown could be discharged.

The Obstacle Must be Faced.

200. We are well aware that in writing thus we may be falsely accused of want of sympathy with some very natural and legitimate aspirations. But it is exactly because we are not willing

* The principle involved is one which has been clearly laid down and observed in many parts of the Empire when the question of the use of Imperial troops in a self-governing area has arisen, e.g., in New Zealand in 1861, and in Natal. That principle is that troops recruited under Imperial authority ought not to be used in support of a policy for which the Imperial Government is not ultimately responsible. The established rule has been that Imperial troops are not at the disposal of Dominion Ministers, and their intervention in exceptional cases takes place only under the authority of the Governor or other representative of the Crown.

to leave matters at this point that we wish to begin by stating, without reserve or concealment, these two plain propositions. First, control of an Army including a British element cannot be made over to an Indian Legislature. Secondly, so far as it is possible to forecast the future, the evolution of an entirely Indian military force, capable of undertaking unaided the tasks now discharged by the Army in India, must be a very slow process indeed. If either of these propositions could be challenged, it would be easier to visualise the complete attainment of self-government in India than it is. But even if these two propositions are true, that is no reason for dropping the subject and treating further consideration as useless. It is Britain herself that has fostered in many Indian minds the hope of increased self-government and, while we must do our best to bring out this essential difficulty, we must also make what contribution we can towards a constructive plan for dealing with it.

The Burden of Military Expenditure.

201. The cost of the Army in India is borne by the Indian taxpayer, and paid out of central revenues. It is, of necessity, a very large figure—at present no less than 55 crores, equal to about £41 millions per annum. We printed in our first volume a table (Vol. I, para. 113, *note*) giving the ratio of defence expenditure to total expenditure in the Dominions, and it is interesting to note the contrast between the case of those Dominions and the case of India. This contrast is not due solely to the immense difference in the risk to be insured against. It is also in part explained (and the explanation is one not always borne in mind when using comparative percentages) by the respective levels of poverty or wealth in the areas compared. But, after all explanations have been allowed for, the figures do, we think, bring home in a very striking way the extent of the burden of defence resting on the shoulders of the Indian taxpayer. As the whole customs revenue of British India amounts to just over 50 crores, it may be said that the receipts from customs almost pay for the Army. Much discussion arises in India from time to time as to whether it is equitable for India to find so large a sum for this purpose, and this discussion revolves round the question—What is the Army in India really for? We are aware that, since the Statutory Commission was appointed, the investigation of India's claim that there is a portion of this military burden which ought not to be charged against Indian revenues has been under discussion between the Government of India and the Home Government, and we therefore refer to it with all possible reserve. But, in so far as constitutional issues may be said to be involved, we feel obliged to touch upon it in general terms.

Purposes of the Army in India.

202. As regards the purposes for which the Army in India is maintained, we have been at pains to procure information from the best sources and to test it in every way that was open to us. The objects for which the Army in India exists are the defence of India against external aggression and the maintenance of internal order.* The size of the Army to secure these objects is not, as is sometimes imagined, fixed by the War Office or the Army Council; it is fixed on the advice of the Commander-in-Chief in India and of the Government of India, of which he is a member. Constitutionally speaking, this means that the authority ultimately responsible for deciding the strength of the Army in India is the Secretary of State. If some question of great importance connected with the Army in India arises, it may come before the Cabinet, and the Cabinet may seek the advice of the Committee of Imperial Defence, though of course responsibility for the decision reached rests with the Cabinet. The Committee on such occasions would invariably include the Secretary of State for India and his advisers, as well as the Secretary of State for War and the Chief of the Imperial General Staff. The Secretary of State for India always has at his service the advice of a soldier of high rank and long experience of India. In the Cabinet, where, of course, the final decision is taken, the Secretary of State for War has no over-riding power; he is, like the Secretary of State for India, a member of the Cabinet taking his share in the joint responsibility for what is decided, but with the important distinction that, if Indian revenues are involved, no acquiescence on the part of the Secretary of State for India can be effective without the concurrence of the majority of the Council of India.

203. We are assured that the size of the Army in India is not artificially enlarged with a view to making some portion of it available for service elsewhere, or for the purpose of keeping on Indian soil a reserve not needed in India at the expense of the Indian taxpayer. Its strength is not more than is calculated to be necessary for meeting the emergencies of internal disorder and the possibilities of external attack. The extent of the demands actually made upon it for these purposes naturally varies from time to time, but it has to be ready for the strain whenever the strain comes. Neither is the British element greater than the Army Authorities in India believe to be needed for these purposes. The Commander-in-Chief makes his estimates and requisitions for British troops, and the Home authorities in consultation with him do their best to meet them. If very serious

* Compare the resolution of the Legislative Assembly of 28th March, 1921. This definition by the Assembly of the objects for which the Army in India is maintained was endorsed by the Cabinet, and statements to this effect have been made in reply to questions in Parliament.

trouble arose in India or on its frontiers, drafts and reinforcements would have to be drawn from home, and the reserves maintained by the British Government are calculated with this in mind. On the other hand, in times of comparative quiet, the Government of India has often found itself able to lend to the Imperial Government units from the Army in India for service in other fields. For example, troops from India served in Egypt in 1882, in China during the Boxer troubles and again in 1927, in the South African War, and on many other occasions. The most striking and extensive instance arose when numerous seasoned units of the Army in India served in many theatres of the Great War, while territorial battalions were drafted into India from home to take the place, as far as possible, of British troops. But when such troops are lent by the Government of India for Imperial service outside India, it is the British taxpayer, and not the Indian taxpayer, who normally pays for them, so that the sparing of troops from India may actually mean a saving for the time being to Indian revenues. A memorable exception to that general rule occurred during the Great War, when, with the approval of the Imperial Legislative Council, British India undertook in 1914 to defray the normal charges of troops withdrawn for the War, and in 1918 to provide a further contribution of £100 millions (subsequently increased by £13½ millions). Britain can never forget this demonstration of Indian sympathy and goodwill in a dark hour. Nor was that all. Some of us still recall the thrill that passed over the House of Commons when, on 9th September, 1914, the Under Secretary for India read the message from the Indian Government, detailing the welcome aid which was promised, and which was so promptly and voluntarily furnished and supplemented, by the Ruling Princes of India, to the common cause.

Supply of Indian Troops for Imperial Purposes.

204. While, therefore, we hold it to be established that the size and cost of the Army in India are only such as are considered to be necessary for the defence of India against external aggression and the maintenance of internal order, it is important to remember that, as a matter of historic fact, the Empire has frequently asked for troops from India for Imperial purposes. It is sometimes assumed or argued that, since India has been able, in response to such appeals, to lend troops for service abroad, it follows that the troops assembled in India, and paid for by India save when so lent, are in excess of India's own needs. The argument is, of course, in itself fallacious. And against such an inference must also be set the consideration already referred to, viz., that circumstances might arise when the troops in India would need to be reinforced from elsewhere in the Empire. But we cannot trace any instance in which the request to borrow Indian troops has been refused outright; such an application is dealt with, we imagine, by the Government of

India as one that ought to be promptly granted in the Imperial interest, unless immediate anxieties concerning India's own safety make the contingent risk too great (for some degree of risk is involved), and presumably such an appeal would not be addressed to India except in times when compliance seemed proper. Accordingly, without questioning the proposition that the size of that Army is fixed by reference to India's needs, it is easy to see that the temporary loan of units drawn from that Army may from time to time properly take place. And the geographical position of India often makes it a very convenient quarter from which to borrow them.

205. These considerations, however, are far from exhausting the analysis of India's military burden. The real question, as it seems to us, is not whether the size and expense of the Army serving in India is greater than is needed for the twin purposes of internal order and frontier defence, but whether in connection with the latter of these purposes there is an Imperial, as opposed to a purely Indian, aspect which, in the absence of countervailing claims, might make it inequitable to regard its cost as falling solely upon Indian revenues. This is by no means to be determined by any single and simple test. A great many considerations have to be measured and set in the scales before the balance can be truly read. We do not for a moment claim to have evaluated every factor (some of which, such as the vexed question of capitation charges, are extremely technical), but a summary of relevant considerations may help to clear the ground for the future.

The Imperial Aspect of Frontier Defence.

206. The argument in favour of recognising some element in the total burden as related to something wider than purely Indian interests is as follows. If the defence of India were to fail, it is not only India that would suffer. Indian lives and Indian property would be the first to bear the brunt of a hostile invasion, but they would not be alone in feeling the results. The whole Empire would be involved. Indeed, it is precisely for this reason that the Empire cannot renounce interest in the defence of India by land, and that the Chief of the Imperial General Staff and the Committee of Imperial Defence may be assumed to take part in advice or discussions on critical questions of high strategy involved in the relations of India with its neighbours. The North-West frontier is not only the frontier of India: it is an international frontier of the first importance from the military point of view for the whole Empire. On India's frontier alone is the Empire open to any serious threat of attack by land, and it must be remembered that such an attack might be delivered not on account of any quarrel with India, but because a dispute between the Empire and a Foreign Power had arisen in quite a different part of the world. The problem of India is, therefore, unique, since no other part of the Empire possesses such a

frontier—vulnerable with such grave consequences and defended at such a cost. Everywhere else, the guarding of a frontier can be normally treated as a local concern. But here, the effective defence of India is a matter in which other parts of the Empire are also closely and directly interested. Imperial foreign policy, Empire communications, Empire trade, the general position of Britain in the East, may be vitally affected. And if operations on an extended scale in that region unhappily became necessary, involving the risk of conflict with a major Power, it is the Imperial Government, with its fuller knowledge of the international situation and its direct concern with all questions of Imperial strategy, which would naturally take the leading part.

Some Countervailing Arguments.

207. We have said that we do not intend to enter upon the question of capitation charges, i.e., of the claims made by the British Government against Indian revenues for payments to cover the cost of training recruits who, in due course, are drafted to India to maintain the strength of the British units quartered there. This question also, we understand, is under discussion between the two Governments; it is a question involving much expert enquiry, and we are, of course, unable to deal with it. However it may be decided, both as regards the principle of liability and the actual amount, it is only one of the considerations which, as it seems to us, enter into the more general issue. Having indicated in a previous paragraph some of the matters which are put forward from the one side, it is right that we should also indicate other considerations which are among those likely to be urged on the other. It can be forcibly argued that, although India's long coast-line enjoys the protection of the British Navy, her present contribution towards the heavy burden which this places upon the British taxpayer is only £100,000 a year. It has to be remembered that the security of India from external aggression is immensely increased by the knowledge that the whole of the military resources of Britain would, if necessary, be available for her protection.

Could the Barrier to Constitutional Advance be Removed?

208. The result of this analysis (apart from any question of figures) seems to us to be as follows. India and Britain are so related that Indian defence cannot, now or in any future which is within sight, be regarded as a matter of purely Indian concern. The control and direction of such an army must rest in the hands of agents of the Imperial Government. Now does it necessarily follow from this that further progress towards the realisation of responsible government in British India is barred until the work of defence can be adequately discharged without the help of British officers and British troops? As things are, there is a block on the line of constitutional advance. All hopes of

evolution in the Central Government towards the ultimate goal described in the declaration of 20th August 1917 are in danger of being indefinitely frustrated if the attitude (illustrated by the Nehru Report) is maintained that any future change involves the putting of the administration of the Army under the authority of an elected Indian legislature. We have already given our reasons for holding that whatever form the Government of India hereafter takes, it must continue to be a unitary government, the members of which take joint responsibility for decisions within the scope of government policy, and that the introduction at the centre of that division of responsibility which is called dyarchy is quite impossible. The question is whether there is any other mode of treatment open which would provide adequately for the needs of Indian defence, and at the same time offer an earlier prospect for some further constitutional advance at the Centre. It seems to us that the only possible method would be to recognise that the protection of the frontiers of India, at any rate for a long time to come, should not be regarded as a function of an Indian Government in relation with an Indian legislature, but as a matter of supreme concern to the whole Empire which can only be effectively organised and controlled by an Imperial agency.

The Main Conditions of a Settlement.

209. A solution based on this principle would probably have to be brought about by a definite agreement between India and Great Britain acting on behalf of the Empire. Many points would have to be settled, and we can only indicate the general lines that might be found to be practical. Such a scheme assumes that the forces composing the existing Army in India would no longer be under the control of the Government of India, but would be under an Imperial authority which would naturally be the Viceroy acting in concert with the Commander-in-Chief. It would involve an undertaking by the Imperial authorities of the obligations of Indian defence in return for the continued provision of definite facilities as to recruitment, areas, transport, and other matters. And, of course, it would involve an equitable adjustment of the burden of finance, which we do not attempt to prejudge, but which would perhaps most naturally take the form of an agreement to provide from Indian revenues an annual total sum, subject to revision at intervals, and with the opportunity of sharing in economies. The contribution would be non-votable. So far, we are dealing with ordinary army expenditure. In the case of extraordinary or war expenditure, there is a broad distinction between the cost of expeditions or operations which are the result of tribal activities and must be considered a normal incident of the Wardenship of the Marches and exceptional expenditure rendered necessary by the organised attack of a foreign power. In the former case, the charges should, we think, fall entirely (as

hitherto) on Indian revenues; while we feel that the circumstances may be such in the latter instance as to make a case for spreading the financial burden more widely. If such an agreement could be reached, the block to constitutional advance in India which this problem of defence now presents would no longer stand in the way.

Consequent Administrative Adjustments.

210. On its administrative side, the adoption of such a proposal would not involve any great departure from present methods. If the responsibility for the Army in India is to rest with the Imperial Government, that Government would continue to be represented in India by the Governor-General; and the day-by-day administration of the Army would be, as now, in the hands of the Commander-in-Chief. The latter would, however, cease to be a member of the Indian Legislature, and, while he remained a colleague of the Governor-General, he would cease to be the holder of a portfolio in the Government of India. The Central Legislature, as now, would not vote supply for the Army; appropriations of revenue for this purpose, in accordance with the arrangement we have assumed, would be authorised by certificate of the Governor-General. But we should like to see the constitution of some Committee on Army affairs on which the Central Legislature—and in time, we hope, the Indian States also—would have representatives for the purpose of discussing, and keeping in touch with, military questions. The military administration would have to be secured in all necessary control over its dispositions and arrangements, and would have the right to demand the co-operation which it now enjoys from the civil authorities. Under the existing constitution such assistance could easily be secured. If and when the Government of India became responsible to a Central Legislature, it would first be necessary to ensure co-operation by definite agreement and to devise machinery for settling differences or resolving deadlocks.

Army Indianisation Hereafter.

211. We have now sketched in bare outline the main features of a method of treatment which, if it is accepted in principle, will call hereafter for a more careful examination and settlement of details, but it is necessary before we pass to the bearings of such a plan on internal security to explain one or two of its more important consequences.

We have already made it abundantly clear that in our view we are pledged to go forward steadfastly and sympathetically, subject only to the over-riding requirements of military efficiency, with the Indianisation of the Army. We consider that this obligation should continue to be honoured in the letter and the spirit if the Army in India were to pass, as suggested by us, out of the control of the Government of India. One of the

consequences of our proposal is that it opens the question whether that Government, in co-operation with the Central Legislature, might encourage the organisation, training and equipment of certain military, and, it may be, naval forces of its own, independently paid for and controlled, which would contain no British element. This involves technical questions into which we do not enter. We realise that financial considerations will of necessity impose strict limits on the size of such forces, for the heavy contribution to the maintenance of the Imperial Army in India on the one hand, and the demands of a progressive civil administration on the other, will definitely restrict the funds available for such additional military experiments. We appreciate the fact, however, that, in the end, a self-governing India can only hope to function with reasonable prospect of success if it can command military forces of its own, and our proposal helps to remove an obstacle to the ultimate possession of such forces.

The North-East Frontier.

212. We have hitherto made no reference to the North-Eastern Frontier of India. This is not because we do not realise that entry into the plains of India from this direction is conceivable but because all the evidence before us shows that the danger from this quarter is not comparable in any measure with that which threatens India from the North-West. Our proposals for the separation of Burma from India† have, however, a bearing on this subject. It is clear that whatever arrangements are made for defence against attacks on the Assam-Burma front must be co-ordinated between India and Burma, and it would facilitate this if the defence of the North-East as well as of the North-West Frontier became an Imperial function.

Future Provision for Internal Security.

213. We have still to consider the bearing of this scheme on the maintenance of internal peace and order. The existing Army cannot, as we have pointed out, be under the orders of Ministers. Yet the preservation of law and order may depend in the last resort on the use of this Army. We must, therefore, consider what is to be done to meet this difficulty, both at the present stage and when further constitutional advance takes place.

In contemplating the possibility of the transfer at the present juncture of the administration of what is popularly known in India as Law and Order to elected Ministers, we also contemplate the continuance unimpaired of the British Parliament's ultimate responsibility for the maintenance of the public peace. It follows, therefore, that the Governments in India which are exercising devolved powers in this sphere will

* See below, Part VI.

have a right to look to the British Government for such measure of military force as may be necessary to enable them to discharge their obligations.

The difficulty to which we have just referred viz. the impossibility of placing British troops under the uncontrolled orders of elected Ministers for the purpose of quelling disturbances of the peace and maintaining order, we would meet by requiring every demand for Imperial troops for this purpose to be put forward by the express authority of the Governor of the Province himself, who would as far as possible satisfy himself as to their legitimate employment. If, to meet cases of emergency, it were found expedient to relax this rigid requirement, we would at any rate suggest that the Governor's subsequent personal endorsement of an application for military aid should be required at the earliest possible moment. The excessive use of military forces as a substitute for police should be guarded against by requiring a financial adjustment between provincial and central revenues, secured if necessary by arbitration, if it occurred.

The position would, of course, be entirely altered once the ultimate constitutional stage is reached and the British Parliament resigns finally its mantle of responsibility in favour of the Indian legislatures. With the attainment of complete self-government by India, which such transfer connotes, will pass to her also the entire responsibility for finding such forces as may be necessary to supplement the civil custodians of peace and order. A self-governing India could not as of right demand the loan of troops of the Imperial Army for civil purposes nor would a British Government, which will control that Army under our scheme, need any justification for refusing such a demand, if made. One condition, therefore, of a self-governing India must be its ability to maintain without the aid of British troops the essential of all good government viz. public peace and tranquillity.

The Decision now to be Taken.

214. We have been led to put forward the above suggestions for a new method of constitutional treatment of the problem of Indian defence, because we have earnestly sought for some means by which the obstacle to progress which the control of the Army in India presents might be mitigated. To those who are tempted to say that the plan we have outlined is a derogation from the full range of Indian aspirations, we would reply that special arrangements, suited to the necessities of each case, have been found necessary in the history of the evolution of more than one part of the Empire towards self-government. If such a treatment of the subject were regarded as inadmissible we should regret it, because the obstacle would remain. At present, as we have shown in an earlier chapter, there are other

reasons why more rapid advance at the Centre is impracticable, and this may be regarded by some as a reason for postponing consideration of the questions we have been discussing in this Part of our Report. But it seems to us that it would be far better to face these difficulties and try to overcome them now. If British and Indian opinion will co-operate for the purpose, and, while grasping the realities of the position, will resolve to find a way to mitigate the obstacle to more rapid constitutional advance, this, we are convinced, would be a more desirable procedure than to delay until the urgency of the problem cannot be denied.

Relation of Proposed Scheme to Hopes of All-India Federation.

215. In conclusion, we wish to stress one general consideration, which we think should be constantly borne in mind and which, as it seems to us, lends strong support to the general nature of the plan we have outlined. We refer to the hope that in days to come the constitutional evolution of India will lead to the establishment of a federal system, in which Indian States as well as British India, will find a place. Every proposal now put forward should be tested from this point of view. At present, the Army in India is paid for entirely out of the revenues of British India, though there fall into the fund contributions in the form of tribute from many Indian States. These contributions arise under the treaty arrangements made between the Paramount Power and the individual State concerned, and the general result presents a highly complicated and indeed an inconsistent appearance. At present, too, some of the most important Indian States have Forces of their own, portions of which are organised for service in case of need alongside the Army for which the Commander-in-Chief is responsible. We cannot believe that the movement towards a greater federal unity will not in time lead to changes in this situation. In what direction are these changes likely to proceed? The Indian States include within their borders some of the races of India which have played a part in the necessary work of securing that defence, and maintaining that order, without which hopes of Indian progress are "the baseless fabric of a vision." We have already said that the Committee on Army Affairs which we contemplate as part of our scheme would be greatly strengthened if it could include representatives from the Indian States. They are just as much concerned to resist assaults upon the integrity of India as those who live in British India, and, while they are entitled to rely on the protection guaranteed to them by the British Crown, they have shown themselves willing and eager to recognise and serve the common interest. Is it not therefore desirable to place the Army in India upon its proper footing now, as the best means of promoting this federal ideal? By this means we may be preparing a way by which the Indian States can participate naturally and easily, on equal terms with

British India, in one of the functions of a federated India which cannot be regarded as the exclusive interest of a part of the whole. The advance cannot be hurried; the achievement will come about not by prematurely imposing constitutional devices, however ingenious, but by a natural process of growth. Sooner or later some such adjustment must come about if any substance is to be given to the idea of ultimate federation, and in order that decisions may not now be taken which might result in misleading hopes being raised we would urge that this wider aspect should not be shut out of view at the present stage.

PART VI.—THE FUTURE OF BURMA.

216. In describing Burma in our first volume (paras. 95 to 99 of Part I, Ch. 8) we have shown that her political union with India is based neither upon geographical connection nor racial affinity, but that, in whatever way one looks at them, Burma and India are different countries. Their association is, however, now of long standing. Is it justified by other reasons besides those of mere administrative convenience, and have ties been formed the breaking of which would injure either or both partners? In the first place, Burma shares with India a land frontier in the North East, which, however difficult, has sometimes in the past been traversed by invaders and might be crossed again. She is also dependent for much of her prosperity on Indian labour. India is the largest individual consumer of her produce. A considerable part of the capital and enterprise which have developed her trade is Indian. The stage of political and constitutional development which she has now reached has come to her as a part of India, and her reliance upon securing further advance is based upon promises made by Britain primarily to India. Hence springs that jealous anxiety felt by the politically conscious Burman that Burma's constitutional progress should in no wise fall behind that of India.

The preservation to the fullest extent of the advantages flowing from these ties and the interests built upon the prospect of their continuance are important objects, although some Burman witnesses, in giving evidence before us, not unnaturally sought to minimise the extent to which these advantages benefited Burma. But while we have given due weight to these considerations, there remain two main grounds for our belief in the necessity of Burma's separation from India. One is the strength which Burman sentiment in its favour has now attained—to the overshadowing of every other Burman demand —and the other is the constitutional difficulty of giving to Burma a satisfactory place in any centralised system designed to advance the realisation of responsible government in British India. We will deal with these two cardinal considerations in the reverse order.

The Present Constitutional Anomaly.

217. The constitutional difficulty is undeniable and has complicated the consideration of reforms for India ever since 1919. Mr. Montagu and Lord Chelmsford did not visit Burma in the course of the tour which preceded the writing of their Report, and limited themselves, so far as that country was concerned, to suggesting that it should have three elected members in the Assembly and one in the Council of State and that it should

come within the general system of finance.* Following up this last recommendation, the Meston Committee visited Rangoon and included Burma in the scheme which it elaborated. The Southborough Committee, while excluding Burma from its plan for the constitution of provincial legislative councils, proposed four elected seats for Burma in the Assembly and one in the Council of State. Ultimately Burma's representation in the Central Legislature was fixed by allotting to it two members in the Council of State (one chosen by the Burma Chamber of Commerce and the other elected by an undivided "general" constituency) and four elected members (one for the European seat) in the Legislative Assembly. Out of the 145 members composing the Assembly, the whole representation from Burma consists of these four elected members and one nominated official. One of the elected members is a European; two are Burmans; and the fourth is at present an Indian. So limited a representation cannot be expected to exercise much influence on decisions at Delhi; moreover, much of the time of the Assembly is taken up in discussion of questions which have no practical interest for Burma. An example would be the debates on child marriage or the age of consent. Marriage with an immature child is as much opposed to Burman as to European customs, and the Burman woman enjoys a position entirely different from that of the Indian woman. Indeed, the structure of society in Burma is so entirely different that her representatives could not be interested in the problems of caste or the keen rivalries of religious communities in India. These things do not enter into Burman politics at all.

Again, questions of Indianisation which bulk large in discussions in the Assembly mean from the Burmese angle merely the substitution of Indian instead of British administrators, as, so far, comparatively few Burmans have qualified for the superior services. Problems associated with the North-West Frontier appear to a Burman to deal with matters a very long way off. It is difficult to get representative Burmans to stand for the Assembly, and it is not surprising that they sometimes find the journey of 2,000 miles over sea and land to Simla or Delhi unattractive and barren of results. We may add that it is seldom that the Governor-General's Council or the Secretariat of the Central Government has contained any member who has served in Burma.

The Divergence of Interests.

218. Moreover, Burma increasingly feels that its own practical interests sometimes conflict with the policy which commends itself to the majority in the Central Legislature. For example, the tariff policy of India includes a substantial customs duty on imported steel, which operates to protect the Indian steel industry of Tatas at Jamshedpur. Burma, however, requires to

* M/C Report, paras. 274, 277, and 206.

import cheap steel for the purposes of her oil industry and for her general development, and it cannot be suggested that a tariff on steel is in the economic interests of Burma considered as a separate entity. It might, of course, be said that areas in India like Madras and Sind, which also do not produce steel, are in the same position. But Burma would reply that Madras and Sind naturally have to bear their share of the burden of India's fiscal policy, whatever it may be, whereas Burma claims to be no part of the same economic unit. The Indian export duty on hides, which is intended to build up a home leather industry, is another case in point, and it has been officially admitted by the Government of India that the operation of these duties has been very injurious to Burma. Since the international obligations of the Government of India involve the maintenance of the principle that there can be no discrimination in tariffs between province and province—a principle which would, of course, not apply to a Burma which no longer formed any part of India—the institution of a policy of protection has inevitably brought into strong relief the contrast in economic interests between Burma and India. Thus the interests of the two countries in economic policy have already begun to diverge, and it is easy to imagine cases where future policy may make the divergence more considerable still. Yet Burma's special interests carry little weight in the Indian Legislature in comparison with the more powerful influence of great business centres in India, like Bombay or Calcutta.

A good illustration of the way in which the interests of Burma inevitably tend to be overlooked, or at any rate not provided for, in matters which are handled as All-India problems, is provided by studying the report of the Indian Road Development Committee. This Committee was appointed in 1927 by the Government of India to " examine the desirability of developing the road system of India." It consisted of 13 non-official members of the Central Legislature. Although development of communications is one of the most urgent problems facing Burma (see para. 98 of our first volume), the Committee did not include a single member from this province, nor did the sub-committee appointed to visit the provinces and collect information from provincial Governments include Burma in its tour-programme. It would be easy to give other instances. Such instances, and the general attitude which they illustrate, are not, of course, anybody's fault—they are the natural consequence of the fact that Burma is not a province of India in any but the technical sense of the term.

Burman Sentiment.

219. Burma's actual experience as an element represented in the Central Legislature has reinforced the argument for separation based on national sentiment. As long as the Government of India was an autocratic Government, responsible only to the British Parliament, reasons of administrative convenience

might justify the inclusion of Burma in the Indian Empire. But the British Government has announced its intention of establishing by progressive stages responsible government in British India, and no one in Burma believes that the Burmans would acquiesce permanently in being governed by a self-governed India. The Joint Conference at Rangoon had before it a number of deputations which took up this attitude. Every member of the Committee of seven members elected by the Burma Legislative Council to cooperate with us, when consulted by the Commission during its Rangoon sittings in February, 1929, expressed the view that, if a resolution in favour of separation from India were proposed in the Council, it would be carried. That these opinions were correct was demonstrated when U Ba Pe, with the stated purpose of supplying the answer to the Commission's enquiry, subsequently moved the adjournment of the Council on this question on 18th February, 1929. The motion in favour of Burma's separation from India was carried without a division. Some may ask whether the verdict of the Council is the verdict of the country as a whole. We ourselves have little doubt from what we saw and heard in Burma that, so far as there is public opinion in the country, it is strongly in favour of separation; that among thinking Burmans the great majority desire separation immediately; and that it is only the elements which derive their political inspiration from corresponding Indian sources that would postpone separation from a belief that Burma's political progress may be hastened by a further period of association with India. Members of the provincial Government, whom we consulted on the point, told us that the feeling in favour of separation was not inspired solely by a belief that the Burmese taxpayer was at present contributing to India more than he received, and by the hope that therefore separation would involve a financial gain. They thought that Burmese opinion would still be in favour of separation even without the prospect of immediate financial advantage.

We come to the definite conclusion, therefore, that nothing but the most overwhelming considerations could justify the continued retention of Burma within the Government of India, and we proceed to consider the two main objections which have been raised. One is military and the other financial and economic.

The Military Problem of Burma.

220. The Montagu-Chelmsford Report, in its brief reference to Burma, assumed that it must remain " part of the Indian polity " for military reasons, but it did not discuss the matter any further. We would first observe that, while it is doubtless a highly convenient arrangement from the military point of view that the whole of an area presenting a connected defence problem should be under one political administration, there are many illustrations in the British Empire where a single

strategic plan must transcend political boundaries. The proposition that two areas in the British Empire which are politically quite distinct must none the less remain under the same Government because they present a common military problem goes much too far. It is common allegiance to the same Crown, not common election to the same legislature, which ought to secure the due co-ordination of plan and of effort. While, therefore, the argument based on considerations of strategy is undoubtedly one to be seriously considered by experts, and attended to by laymen, it cannot, we think, in the circumstances of Burma, control the situation.

How far, then, do the military interests of Burma and India coincide? We have given careful attention to the information furnished to us on this subject both in India and in London. The object for which the Army in India is maintained is, apart from internal security, the defence of India's frontiers. The major and immediate place of danger is, of course, in the north-west. We have described the character and extent of the problem in para. 114 of our first volume, and in our account of the North-West Frontier Province (Volume 1, paras. 359 to 363). But, besides the major and immediate problem, there is the more distant and problematic one in the North-East. The view which we take, and the recommendation which we are going to make, are not arrived at without appreciating that the defence of India proper and the defence of Burma are closely related questions, especially as the frontier to be watched in the North-East extends from Burma into Assam. But, if the problem of India's defence be viewed from Burma's standpoint, Burma has no immediate and personal concern with the defence of the North-West frontier; she is interested in it just as Ceylon is, but to no greater extent. The disparity in the menace which the North-East frontier presents may be measured by the utterly different scale and nature of the arrangements which have been made to meet it. No strategic railway leads up to the frontier zone; no money has been spent on lateral roads, and very little on Intelligence. The watch on the North-East frontier is entrusted to military police. We have described in our first volume (paras. 94 and 97) the nature and extent of the forces permanently located in Assam and Burma for the defence of this frontier.

It is, of course, true that Burma does not rely exclusively on the forces stationed in Burma, but is also entitled to the services of the whole forces of India, subject to the satisfaction of simultaneous demands in India itself. But the size and nature of the Army in India are conditioned by the major, not by the minor, commitment. The value to Burma of the heavy armaments which India has in any case to maintain must surely be judged in terms of the liability which Burma's possible requirements impose. Burma's insurance premium should be proportionate to the risks incidental to her position. Burma well understands

that if, after separation, she continues to place reliance upon the existence of the Army in India she must contribute towards its cost. The position, therefore, appears to be that, while Burma is not domestically interested in the defence of the North-West, she has on her own borders a less definite but potential danger which, if it actually emerged in concrete shape, she could not deal with single-handed. The North-East frontier problem cannot, therefore, be considered in isolation; the arrangements for meeting it must continue to be concerted with the authorities responsible for India's defence; but this is not necessarily a conclusive reason against political separation.

The Military Consequences of Separation.

221. The suggestions which we have made in Part V of this volume enable the military relations of Burma and India to be viewed somewhat differently to-day than was possible in 1919. If it is desirable to find a constitutional arrangement for removing the obstacle to India's political progress which arises from her military dependence on Britain, it may with even greater force be contended on Burma's behalf that her sharing with India of this common military dependence on Britain must not be used as an instrument for retaining her as an unwilling province within the area of the Government of India. If both India and Burma are to look to a common source for protection, they may surely do so as separate political entities, while the military predominance of India may fitly contribute to the more efficient organisation of the defence of both countries without imposing upon Burma dependence on India in non-military spheres.

It would seem quite unreasonable to rate the threat from the North-East so high as to treat it as barring the possibility of the change. We see no reason whatever why it should not be possible to combine political separation with satisfactory arrangements in the military sphere.

It is not, of course, for us to suggest the lines on which the defence of India and Burma should be co-ordinated if separation takes place. Inasmuch as increased military expenditure would be gravely prejudicial to the interests and contentment of both countries, it is important on this as well as on more general grounds that the plan adopted should be such as will not increase the sum total of armaments in the two areas combined. We conceive that the troops in a separated Burma would be under the control of the Governor for purposes of watch and ward on the frontier and in all internal matters in which it is necessary for the civil power to seek their assistance; while, for anything more than merely local defence against raiders, Burma would be in the same position as other parts of the Empire, plans for the defence of which in an emergency devolve upon the Imperial authorities. It would be open to the latter, by agreement with the authorities in India, to arrange a concerted scheme of defence.

The Financial Consequences.

222. In his Appendix at the end of Part VIII of this volume Mr. Layton has discussed what the effects of separation upon the public finances of India and Burma might be. Though the actual settlement between the two countries must be determined by subsequent negotiations, we are here concerned to note and endorse Mr. Layton's general conclusion that separation could fairly be effected in such a way as to do no financial injury to either country and to leave Burma with adequate resources for her present needs and a balance for development purposes in excess of that which she obtains to-day.

The fear has been expressed that in the event of separation Burma might not be able to borrow on as favourable terms as if she remained a part of India and continued to enjoy the benefit of India's credit. It is argued that, if Burma were separated from India, it would probably be some time before the new Government was sufficiently well established to enable her to borrow as cheaply as she can now. It seems to us to be impossible to be dogmatic on a point of this sort, as so much must depend on factors at present unascertained; but there is no doubt that Burman opinion would prefer that Burman credit should be influenced by Burman policy rather than continue to be dependent on the policy of her neighbour—a policy in which she herself exercises no effective control.

The Economic Consequences.

223. We have also to consider the effect of separation on Burma's economic position, and especially on its economic relations with India. Burma imports on an average 15½ crores worth of goods from India, chiefly consisting of gunnies, tobacco and cigarettes, twist and yarn, piece goods, coal and coke, and betel nuts. The iron and steel imported into Burma come mostly from Europe. On the other hand, India imports from Burma goods of the average annual value of 24 crores—rice and paddy account for nearly 11 crores, kerosene and petrol for 8½ crores, and teak and other timber for 3½ crores. The effect of separation would, *prima facie*, be that the tariff of each country would apply against the other, and many of the articles named are on the Indian tariff list. In view of the vital importance of Indian labour to Burma and of Burma's rice to India, and of Burma's need for Indian coal and gunnies, some special trade convention between India and Burma, if it could be arrived at, would be of advantage to both. Since both countries are included in the British Empire, this could be done without infringing the most favoured nation clause in treaties with foreign countries.

Opinion in India is naturally slow to approve of separation from so near a neighbour before the necessity of the step is unquestionably demonstrated. We find, for instance, that all the Indian members of the Indian Central Committee have

advised against immediate separation. But the majority of them have, on the other hand, stated that their objections would disappear if, on further enquiry into the military and financial implications, it were shown that separation was feasible. Fears have been expressed that, in view of the present attitude of certain Burmans, the future immigration of Indian workers into that country might be unduly restricted. It is not unnatural that the Burman with his pride of race should regard with dismay any prospect of his country being over-run by Indian immigrants but we have shown in our former volume* that these fears may easily be exaggerated. The presence of Indians in Burma is due not to any special privileges extended to them, but to the plain fact that Indians can perform many services which the Burman is unable or unwilling to perform for himself. The new constitution for Burma should make due provision for the protection of the legitimate interests of Indians domiciled in Burma.

Separation Should Take Place Now.

224. On a broad view, the question to be answered is not whether separation should or should not be effected, but whether it should take place now or at some future time. We base our recommendation that separation should be effected forthwith on the practical ground that no advantage seems likely to accrue from postponement of a decision to a future date. The constitutional difficulties of securing Burman participation in the Central Government of India are not prospective but actual. They will grow with every advance in the Indian constitution and will prejudicially affect not Burma only but India itself. We believe, moreover, that a decision to postpone separation would be so unpopular in Burma as to endanger the working of any reforms which might be given to her as a province of India. A decision to separate her from India immediately would, on the other hand, we consider, produce an atmosphere in Burma favourable to the satisfactory settlement of the many problems to which separation will give rise. In view of the changes we are proposing in the system of government for the rest of India, we are satisfied that the separation of Burma can be more fittingly carried out now than at a later stage.

We advise, therefore, that Burma should be separated from India immediately; and we think that there are strong reasons why a declaration to this effect should be made as early as possible. But Burma will not regard it as satisfactory to her self-respect if she is left in possession of her present constitution for an appreciable time after further reforms have been introduced in the other provinces. The principal reason why we suggest an early declaration is in order that the necessary further enquiries may be made in time for Burma to receive a new constitution as nearly as may be at the same time as the new Government of India Act comes into operation.

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* Vol. I, para. 95.

Questions Arising out of our Conclusion.

225. The conclusion that Burma should be separated from British India for purposes of government will not only leave the military problem to be adjusted between the two countries, but will, of course, raise for consideration and decision the very important question, what form the new constitution of Burma should take. It is remarkable how little close attention this matter has received from those bodies, whether official or unofficial, which placed before us the strength of the arguments for separation. The memorandum of the Government of Burma, besides supplying an admirable account of Burman conditions and of the nature and organisation of its existing Government, contented itself—not unnaturally—with formulating and illustrating the main argument about separation without approaching the subject of what would follow if separation took place. It would have been a waste of labour to spend much time on the details of a new scheme, if the decision is not taken to put an end to the old one. The Burma Committee, no doubt on these grounds, contented itself with giving in its Report only a bare outline of the kind of constitution which it advocated.

We think, as we have said, that the announcement should be promptly and publicly made that the separation of Burma from British India has been decided upon and that consideration will at once be given to the question of the new constitution of Burma, and to the adjustment of the many complicated and important matters which must arise during the period of transition. The Statutory Commission cannot itself undertake to elaborate a constitution for Burma, because suggestions from authoritative quarters are not as yet forthcoming, and until the main question is settled, the consequent readjustments are hypothetical. We do not suppose that the framing of a new constitution for Burma would be undertaken without full consultation on the subject with those having special knowledge of the working of its present government, or until after further enquiry into local conditions and opinions.

It would only embarrass such further enquiry if we were to make dogmatic pronouncements as to how to deal with a situation which would only arise if our main recommendation was accepted. At the same time, the decision in favour of separation cannot be prudently reached without at any rate visualising the general nature of the consequential problem which would then present itself. We propose, therefore, to add a few words on the subject. Burma at present is a province of British India with a provincial legislature, mainly elected, which has jurisdiction over about half the total area of the province (for nearly half of Burma consists of backward tracts); administration of provincial affairs is carried out under the system of dyarchy; but the authority of the Central Government of India extends over Burma as part of the whole, with

all the powers of superintendence, direction and control which the Government of India Act confers upon the Governor-General in Council. Now, after Burma is separated from India, it will cease to be an area in which there is a distribution of powers between Centre and Province, and the first question which will arise will be—What sort of authority is to exercise in future the powers now in the hands of the Government of India in respect of Burma?

The transition from being one of the provinces making up a larger whole to the position of a self-contained and unitary state makes it probable that the future constitution of Burma will fall into a special category, neither following exactly the future provincial pattern nor combining without modification the central and provincial powers we contemplate for India. There can be no question of set-back, and we conceive that the new constitution of a separated Burma would, like that of India, be a stage on the journey to more complete self-government. But we think it necessary to point out that this does not mean that every detailed provision introduced into India in pursuance of that policy should be regarded as strictly applicable to Burma. In particular, the provisions of the Lee Report, which fixed a date by which a certain proportion of British to Indians in the services should be reached, was based on a general average over the whole of India—greater in some provinces, less in others. These proportions must not, therefore, be taken as automatically applicable to a separated Burma. Recruitment on a basis corresponding to the basis for All-India services will be required, and it will be of the greatest importance to preserve and build up the traditions of these services. The pace of Burmanisation must be decided on its merits. We are quite satisfied, moreover, that the first period in the life of a separated Burma could not be accompanied by full responsibility in respect of all matters which are now the special concern of the Central Government of India; we are clear that certain subjects must continue to be withheld from popular control. It is not possible for us to make definite suggestions as to a delimitation of powers between the Governor and the Home authorities, which must be a matter for those who settle the new constitution. The backward tracts of Burma should not, we consider, be put under the new Burman Legislature, but should be the special charge of the Governor, who would also, we take it, be the representative of the Crown in relation to the States of Karenni. The ultimate advancement of Burma will depend more than anything else on the efficiency of a suitable administration during the years now coming, and premature efforts on its part to dispense with help from Britain would only lead to disaster. Modified arrangements will be required for many important matters—Burman currency and Burman loans, for example. The whole relation of Burma with the rest of the Empire will raise new problems which must be handled with the help of the best experience available.

Relations of Burma with Indian and Home Governments.

226. We cannot go further on this point without trenching upon the area which will be explored by those who will have to devise in more detail the future constitution of a separated Burma. But it may be convenient if we make an observation on the extent to which, under separation, Burma would share with British India in some special degree some parts of the supervising machinery of government. The suggestion has been made that, though the Governor-General in Council and the Indian Legislature would cease to control Burma, Burma would still remain under the Viceroy, who, in this view, would become Governor-General of India and Burma. Various advantages might be claimed for this arrangement. The Viceroy, it may be said, would form a convenient and useful link between the two countries. The plan would tend to allay the anxieties of Indians resident in Burma. It might help the Secretary of State in the discharge of such powers of superintendence, direction and control as might be retained over Burma, if the Viceroy were interposed between him and the Government of Burma. Such a scheme might involve that certain matters relating to Burma, which cannot be finally decided without reference to British authorities outside that country, instead of being referred in all cases direct by the Government of Burma to the Secretary of State, might be dealt with on behalf of the Secretary of State, or under his delegated authority, by the Governor-General of India and Burma. Complications which might possibly arise on the military side would be thus simplified. Burma, it may be argued, would thus not lose all at once the help to be derived from the experience of the Government of India in such matters as foreign affairs, currency, exchange, and the like. This is rather an attractive argument, but we are, nevertheless, not disposed to favour such a plan. A Viceroy of India, appointed from home for a five years' tenure of office, would have little first-hand knowledge of Burma, except what he could pick up by an occasional tour, and his personal experience would be of little assistance either to the Secretary of State or to Burma, in dealing with Burma's problems. The contribution, therefore, which the Viceroy under his new title would be able to make would tend to be controlled and determined by the departments of the Government of India, and there would be an obvious anomaly in a separated Burma being still the subject of regulation, or at any rate of influence, by the Secretariat of another Government. Moreover, the plan of having a single individual as Governor of India and Burma is one that threatens the possibility of serious friction. The interests of India and of Burma are not identical; this is indeed one of the strongest reasons for separation, and it may be that these interests will tend to diverge still further. It is quite possible that the Government of a separated Burma, backed

by the Burman Legislature, may make proposals which would not be palatable to India. If this occurred, the position of the Indo-Burmese Viceroy would be extremely embarrassing. If he accepted or supported such proposals, there would be an outcry in India. If he ruled that they should be dropped or modified, he would be accused in Burma of having sacrificed the interests of Burma to the interests of India. And public criticism would not attach to an abstract entity like the Government of India, but to the Viceroy personally, for the Government of India would be a third party, having, at least in constitutional theory, nothing to do with it. We are, therefore, clearly of opinion that, if separation took place. the Viceroy of India should cease to have any official responsibility towards Burma, and Burma should have a Governor of its own not subordinate to the Viceroy.

The point at which co-ordination of Indian and Burman affairs might be secured is in London and not at Delhi. It may be that, both in connection with the separation of Burma from India and for other reasons also, the present distribution of functions and spheres between the different Secretaries of State who deal with Empire affairs will come up for reconsideration. Whatever may be decided upon in this connection, it is clear that the separation of the Government of Burma from the Government of India should be so carried out as to furnish to the Burman people a guarantee of the status which their new Government would occupy, and at the same time to facilitate the handling of problems in which India and Burma must continue to have a close common concern, such as the problem of defence and the problem of recruitment for their respective Civil Services.

PART VII.—FUTURE RELATIONS WITH THE INDIAN STATES.

227. We have in the earlier volume of our Report given some account of the Indian States, and have called attention to the important position which they occupy in the political map of India. The problems which have to be dealt with by the Central Government of British India are not confined within its own boundaries, for the dividing line has not been drawn by reference to considerations which, on grounds of economic interest, or racial connection, or physical geography, naturally separate countries from one another. It is often said that there are "two Indias," one the India which has been subject to British rule, and which has pursued its constitutional development as a part of the British Empire, and the other the India of the States, consisting of nearly 600 units, which are not British territory, but are ruled by hereditary Princes and Chiefs, who are in relations with the British Crown on terms which secure to them large powers of internal sovereignty, while their external relations are a responsibility of the Paramount Power. It would be more true to say that there is really only one India, but that the unity of India includes the Indian States as well as British India. "India is in fact, as well as by legal definition, one geographical whole. The integral connection of the States with the British Empire not only consists in their relations to the British Crown, but also in their growing interest in many matters common to the land to which they and the British Provinces alike belong."* Apart from questions of control exercised at the Centre over the Provinces of British India, All-India problems, whether of war or peace, are really common to the whole of India, and not limited to those parts of it which are painted red on the map. Consequently, whatever may be the future which is in store for British India, it is impossible to conceive that its constitutional development can be devised and carried out to the end, while ignoring the Indian States. It is equally certain, in the long run, that the future of the Indian States will be materially influenced by the course of development in British India. The Indian Princes have not been slow to acknowledge that their interest in the constitutional progress of British India is not that of detached spectators, but of fellow Indians living in a world which, for all its history of deep divisions and bitter rivalries, preserves in some respects remarkable cultural affinities, and is slowly working out a common destiny. It was for these reasons that we addressed our letter to the Prime Minister last October, and drew attention to the importance, when considering the direction which the future constitutional development of British India is likely to take, of bearing in mind the relations which may develop

* M/C. Report, paragraph 296.

between British India and the Indian States. We wrote, "Whatever may be the scheme which Parliament will ultimately approve for the future constitution and governance of British India, it is essential that the methods by which the future relationship between these two constituent parts of Greater India may be adjusted, should be fully examined." And we added that "It seems clear that we cannot afford to ignore the reactions of the presence of the States on the problem we are studying in British India, or the possible repercussions on the former of any recommendations we might frame regarding the latter. At certain points an inevitable contact takes place."* We are glad to learn from many indications that our proposal of a Conference, to be held after our Report is published, to which both representatives of British India and representatives of the States would be invited by His Majesty's Government, has been welcomed on the side of the Indian Princes, and in what follows in this Part of our Report we are endeavouring to concentrate attention upon and to analyse certain suggestions in the hope that our work may be useful to this Conference. So far as concrete proposals are concerned, we have to remember that, although the relation of the Indian States to any future constitutional framework for British India is well within our terms of reference, it is not an aspect of our enquiry to which prominence was specially given by evidence and discussion when the Commission was visiting India, and until the opportunity arises at the Conference which we have suggested, and which all British Parties have approved, for representatives of the Indian States to put forward their own views, it would obviously be improper to pronounce dogmatic conclusions.

General Acceptance of the Federal Idea.

228. It has become a commonplace to observe that the ultimate ideal to be aimed at is some sort of federal arrangement which would embrace every part of Greater India. Twelve years ago, Mr. Montagu and Lord Chelmsford wrote, "Looking ahead to the future we can picture India to ourselves only as presenting the external semblance of some form of 'federation.' The provinces will ultimately become self-governing units, held together by the Central Government which will deal solely with matters of common concern to all of them. But the matters common to the British provinces are also to a great extent those in which the Native States are interested—defence, tariffs, exchange, opium, salt, railways and posts and telegraphs. The gradual concentration of the Government of India upon such matters will therefore make it easier for the States, while retaining the autonomy which they cherish in internal matters, to enter into closer association with the Central Government if they wish to do so. But though we have no

* The Chairman to Mr. Ramsay MacDonald, October 16th, 1929, reprinted in Vol. I, p. xxii.

hesitation in forecasting such a development as possible, the last thing that we desire is to attempt to force the pace. Influences are at work which need no artificial stimulation. All that we need or can do is to open the door to the natural developments of the future."*

The main piece of constitutional structure resulting from the suggestions in this passage was the creation of the Council of Princes and its Standing Committee, and we shall consider this development more in detail below, in order to see how far it can be regarded as a step towards what is contemplated as an ultimate possibility. Two other quotations of more recent date will show how widely current is the idea, or perhaps we should say the vision, conjured up by the words "federation." His Highness the Maharajah of Bikaner, in the important statement made by him after first reading the Viceroy's announcement of October 31st, 1929, referred to the sympathy and support of the Princes, which he believed would be forthcoming in a very substantial and practical manner at the proposed Conference, and added that the Princes "have openly given expression to the belief that the ultimate solution of the Indian problem and the ultimate goal—whenever circumstances are favourable and the time is ripe for it—is Federation, which word has no terrors for the Princes and Governments of the States." And the Butler Committee adopted the analogy used in the Montagu-Chelmsford Report of the open door, while adding a shrewd caution against the danger of trying to advance in the direction of federation too fast—a caution which we take thoroughly to heart and venture respectfully to endorse. The Committee wrote:—

> "We have left the door open to closer union. There is nothing in our proposals to prevent the adoption of some form of federal union as the two Indias of the present draw nearer to one another in the future. There is nothing in our proposals to prevent a big state or group of states from entering now or at any time into closer union with British India. Indeed, in the next section of our report we make suggestions which, if adopted, may have this result. These things may come. But it has been borne in upon us with increasing power, as we have studied the problems presented to us, that there is need for great caution in dealing with any question of federation at the present time, so passionately are the Princes as a whole attached to the maintenance in its entirety and unimpaired of their individual sovereignty within their states."†

We are, therefore, following what has become a generally accepted view, when we express our own belief that the essential unity of Greater India will one day be expressed in some form of federal association, but that the evolution will be slow and cannot be rashly pressed. We feel, however, that the mere repetition of these generalities would not be of much service, and that the best way to help will be, while preserving throughout the caution in treatment which so important and difficult a question demands, to consider some of the difficulties which the adoption of the idea of federation would involve,

* M.C. Report, paragraph 300.

† Butler Committee's Report, para. 78.

and to see whether there is any constructive action which could now be taken as at any rate a short step on the long journey to its attainment.

The Butler Committee on the Exercise of Paramountcy.

229. And first we desire to draw attention to a distinction between two questions which arise and are discussed in reference to the relations between the Indian States and British India. One has to do with the exercise of paramountcy. The other is concerned with the treatment of matters which are of common concern to the States and to British India. The Butler Committee gave an account of the relationship between the Paramount Power and the Indian States, with particular reference to the rights and obligations arising from treaties, engagements, and sanads, and from usage, sufferance, and other causes. We have, of course, carefully studied this Report, and also a good deal of the material placed before the Butler Committee in this connection. We are not attempting to go over the ground which the members of the Committee, with much greater opportunities for detailed and specialised survey, have covered, but we must at once emphasize its important recommendation* that the Viceroy, and not (as at present) the Governor-General in Council, should be the Agent of the Paramount Power in its relations with the Princes. This would involve, as the Report points out, an amendment of the existing statute law, for section 33 of the Government of India Act operates to vest this function technically in the Governor-General in Council. Even at present, however, the Foreign and Political portfolio of the Government of India is always held by the Viceroy himself; he disposes of the bulk of the work connected with the Indian States with the help of the Political Secretary; and his view must carry especial weight in his Council in those political cases which he, in his discretion, decides should go before it. The actual change in practice would not, therefore, be very great, although it is important. There are strong indications that this recommendation of the Butler Committee is warmly welcomed by the Princes, and we must point out that its adoption might assist the approach towards a federal solution, for while it would be extremely difficult to conceive of a federal association between units over some of which a responsible Federal Government claims to exercise rights of Paramountcy, it is a very different

* Butler Committee Report, paragraphs 67 and 106. The word "Viceroy," employed to describe the representative of the King-Emperor in relation to the Indian States, has become usual, and we follow the nomenclature of the Butler Committee. So far as we know, the word never occurs in any Act or Statutory Rule, nor is it used in the Warrant of Appointment under section 34 of the Government of India Act. It appears in Queen Victoria's Proclamation of 1858, when Lord Canning was appointed "Our first Viceroy and Governor-General," thereby distinguishing him, on the direct assumption by the Crown of the Government of India, from the previous Governors-General under the Company.

matter to envisage such an association ultimately developing between provinces of British India and the Indian States when the exercise of Paramountcy over the latter is in the hands of the Viceroy as distinguished from the Central Government. There are other problems connected with the mode of exercise of the powers and duties now vested in the Crown, but a satisfactory settlement of this particular matter at the outset would clear the road for the other topic with which the idea of ultimate federation is specially concerned, namely, how can some better organisation be, by slow stages, evolved for the discussion and regulation of matters of common interest between British India and the Indian States?

The Complications to be Overcome.

230. The bringing together of political units into a federation essentially involves an agreement between them to place in the hands of some central body duties and powers to be exercised by it on behalf of them all, while the constituent units retain unimpaired their autonomous authority in other respects. The application of this idea to the area of Greater India cannot follow any known pattern, for the circumstances are unique, and its accomplishment must remain a distant ideal until means have been devised to meet and overcome obstacles which are at present extremely forbidding. If we point out what some of these special difficulties are, it is with no desire to make the most of them, but it is because no advance from the stage of vague aspiration is likely to be made until they are to some extent defined and faced. The first difficulty that presents itself arises from the heterogeneous character of the units to be federally associated. We will leave out, for the sake of simplicity of analysis, on the one side the numerous small feudatories and estates, and on the other the parts of British India which are outside the major Provinces, though neither of these complications can be dismissed as unimportant. We have then to conceive of some sort of federal union between (1) non-British States possessed of the internal sovereignty we have described and, generally speaking, completely independent of one another, and (2) British areas which derive their measure of autonomy from a common centre and already form part of a single political system. It is obviously much more difficult for units of the first class to surrender to a common centre authority over matters of common concern than for units of the second class to do so. Then again, the range of matters subject to control from a common centre will need much consideration. Whereas in British India there is a long tradition of an overriding central authority with wide powers over a provincial Government, not limited to the prevention of misrule and extending to many matters which affect that particular Government alone, it would be natural under a federal constitution to delimit strictly the scope of central control. The Reforms of ten years ago effected a measure of decentralisation, but it cannot be said that at present

the central authority in British India concerns itself solely with central affairs. "Provincial autonomy," as we have already pointed out, is not a constitutional solution, but an attractive phrase which is sometimes employed without any clear view as to the methods or the results of attaining it; at the same time the phrase is a finger post which points to the direction in which we must move, if we really desire in the end to bring about a Federation to which Indian States will adhere. On the other hand, we think that the difficulties of reaching a federal union between units with widely varying methods of internal government are sometimes overstated. Variety in this respect is not an insuperable obstacle. The constituent members of the old German Federation were not all internally governed in the same way; indeed, they presented between them almost every variety of constitutional structure. A form of Federal association between areas which are British territory and units which are not British territory could be worked out; the analogy of the League of Nations itself, imperfect as the analogy is, is sufficient to show that States with widely differing forms of government may none the less unite for common purposes and evolve a central organism for matters of common concern. There is another point at which the analogy to which we have referred may prove helpful. The Governors' Provinces of British India are all of very substantial size, and, whatever re-arrangements of provincial boundaries may take place, it is improbable that any provincial area would be so minute as not to require individual representation in the central body of a federated India. But the Indian States vary enormously in size, from great countries to properties of a few acres, and, while individual membership would be no less essential for the greater States than for the British Provinces, some system of representation by rotation or other form of grouping must be contemplated for the smaller units. This distinction is, indeed, already recognised in the constitution of the Chamber of Princes, and another illustration is to be found in considering the composition of the Council of the League of Nations, to which certain great Powers permanently belong as individuals, while other seats on the Council are occupied in rotation by smaller States.

The Form of Ultimate Federation.

231. In order to estimate whether anything can now be done as a step in the direction of Indian Federation, however distant that goal may be, and in order to avoid false steps which could only lead us further away from it, let us visualise what the ultimate situation would be in a federated India. In its complete form, a Federal Legislature, a Federal Executive, and Federal Finance are all involved. The Federal Legislature would have to contain representatives both of the States and of the Provinces, and would exercise legislative powers over

matters of common concern, together with powers of imposing and spending (or at any rate of distributing) federal taxes. The Federal Executive would be charged with the duty of administering federal subjects and, since it is useless to undertake a duty without means being available for carrying it out, would have to be able to secure the effectiveness of federal administration. The units of federation would be (1) a series of Provinces, each with its legislature and its ministry responsible to the legislature, with a Governor at the head of the Province; the internal government of the Province would be in the hands of the provincial ministry, and each Province would have its own provincial revenues and expenditure; and (2) a series of Indian States autonomously governed so far as their internal affairs are concerned, each with its ruling Prince in relations with the British Crown, and each with its own internal constitutional arrangements and its own system of internal finance, but with no powers to impose customs duties at its boundaries. And over the whole would be the representative of the British Crown, as Viceroy in relation to the Indian States and Governor-General in relation to British India. The setting out of these elements in an ultimate Indian Federation helps to bring out some of the difficulties which have to be surmounted, and to show the need for caution and deliberation at every step. As regards legislative powers, since each State must remain free to make its own State laws, and each Province must also have its own legislative field, must not the Federal Legislature be limited to the making of laws on specific subjects which would be excluded from the ambit of both State and provincial legislatures? Thus the residue of legislative power, outside the specific federal list, would lie with the States and the Provinces, and this would involve a strict distribution of legislative power such as does not exist in British India to-day. And does this in its turn not lead to the necessity of a Federal Court charged with the duty of seeing that the Federal Legislature does not overstep its powers, and of securing that the units of federation do not seek to exercise legislative powers which they have surrendered? The answers to questions such as these can only be reached when the impulse towards federation has gathered so much strength that the units concerned come together to confer on the subject. Equally troublesome questions may be propounded about provincial legislation, as we have already hinted. Is there to continue to be an overriding power of veto by the Governor-General, or by some organ of the Central Government? Is the Governor, in exercising his power of allowance or disallowance, to consult the Governor-General and act under his instructions? Is it possible to imagine that there should be associated with the Viceroy an Indian Privy Council, whose advice would be sought in these matters? It is clear that the application of ideas of this sort to a federal constitution which includes the Indian States is a very difficult matter. Again, as the Provinces approach

nearer to autonomy, the question of providing for effective intervention from the Centre in case of breakdown assumes great importance, but while such arrangements might form part of the written constitution of British India, the duty of the Paramount Power in extreme cases to intervene in relation to an Indian State is derived from a different source and carried out in a different way. The conception of a Federal Executive furnishes a crop of problems of its own. How is it to be composed, and what is it to do? It must include both members from British India and members from the Indian States, but it would be a difficult matter to determine how, or in what proportion, they are to be chosen. However composed, the authority of the Federal Executive must extend over the whole area, and, therefore, we have to contemplate a time when, for purposes of federal administration, a decision reached with the help of Indian States representatives will take effect in other Indian States to which these representatives do not happen to belong, as well as throughout British India. The problems to be solved in settling the composition of a Federal Legislature are no less numerous, and no less obvious. On this head we content ourselves with two observations. First, the members of a Federal Legislature would be the representatives of federal units, States or Provinces as the case may be, and this furnishes a further reason in support of our view that the members of the Central Legislature drawn from British India should henceforward be selected by the provincial legislatures themselves. By this method, and by this method alone, is the way kept open for the addition of representatives from the States, who would be chosen by the governing organ of each State, whatever that organ may be. It is thus possible to reconcile the conception of a single Federal Legislature with a variety of forms of government inside the federal units. Secondly, we think it may well turn out that the more probable course of evolution of a Federal Legislature will be by the gradual accretion of Indian States to a federal scheme, rather than by a sudden and complete transformation affecting all the principal States at the same time.

Development of Federation in Canada.

232. There is an analogy of some value to be found in the development of the Dominion of Canada, though we hasten to add that we do not overlook the difference that in Canada's case. all the areas involved were British soil. The British North America Act of 1867, which established the Canadian Federation, only brought together in the first instance Nova Scotia, New Brunswick, and the old Province of Canada, i.e., Quebec and Ontario; and these four areas constituted the whole of the Dominion of Canada when federation began in 1868. Thus the whole area then administered by the Hudson's Bay Company (which amounted to one-third of the area of Canada as we know it to-day), as well as the Colony of British Columbia,

Prince Edward Island, and the almost unsettled lands afterwards known as Alberta and Saskatchewan, were outside the Dominion altogether. But the Preamble to the British North America Act contained the recital :—

> "And whereas it is expedient that Provision be made for the eventual admission into the Union of other parts of British North America,"

and, in pursuance of this Preamble, Part XI of the Act contained a section (No. 146) as follows :—

> "It shall be lawful for the Queen, by and with the Advice of Her Majesty's Most Honourable Privy Council, on Addresses from the Houses of the Parliament of Canada, and from the Houses of the respective Legislatures of the Colonies or Provinces of Newfoundland, Prince Edward Island, and British Columbia, to admit those Colonies or Provinces, or any of them, into the Union, and on Address from the Houses of the Parliament of Canada to admit Rupert's Land and the North-western territory, or either of them, into the Union, on such Terms and Conditions in each Case as are in the Addresses expressed and as the Queen thinks fit to approve, subject to the Provisions of this Act; and the Provisions of any Order in Council in that Behalf shall have effect as if they had been enacted by the Parliament of the United Kingdom of Great Britain and Ireland."

It is a striking fact that even to-day the extension of Canadian Federation contemplated by the Act of 1867 is not complete, for Newfoundland has always remained outside the Dominion of Canada. The Hudson's Bay Territory, under the name of Rupert's Land, was in fact surrendered to the Crown in anticipation of its admission into the Dominion of Canada under the Imperial Statute of 1868 (31 and 32 Victoria, c. 105), and part of the North-western Territory was organised into a Province and known as Manitoba in preparation for its union with Canada. But ultimately the Order in Council which admitted Rupert's Land and the North-western Territory into the Union, was made in 1870, under the powers of section 146, and in 1871 the procedure of section 146 was exactly followed for the purpose of admitting the Colony of British Columbia. Similarly, Prince Edward Island was admitted in 1873.

The Accretion of Units.

233. The point of this Canadian analogy is that the British North America Act of 1867 contained a scheme for extending the area of federation, but no actual extension took place merely because the Act was passed. The Statute created an opportunity; it did not impose a federation upon outside areas. Subsequently, the scheme was made use of by the method of negotiation and agreement between the existing Dominion and a new area when it was ready to enter the Federal Union, and the actual operation was effected piecemeal, as each additional unit was ready to come in, without the necessity of passing any amendment of the British North America Act at all. This suggests that a possible mode of approach to the problem of Indian Federation would be for the Imperial Parliament to include in the new Government of India Act a Part which will have no operative effect by itself, but which will contain

a scheme or formula which might be from time to time adopted by mutual agreement between a given State and British India. The process is much more difficult in the case of India, if only for the reason already stated that, in the Canadian case, all the areas whose possible federation was visualised in the future were British territory; but this does not seem to us necessarily to alter the conclusion that the general method of treatment thus indicated is the one most likely to produce practical results. And there is a further reason why, in the case of India, a Federal Legislature is likely to be evolved only by the process of gradual accretion. The matters to be considered and adjusted by agreement before a particular State could adhere to such a plan are not identical in every case, but differ widely between State and State. Questions of tribute, State military forces, and other items on one side or other of the account, would need adjustment in each individual case. If an important State were to represent to the Viceroy its desire to negotiate terms and conditions of entry into the federal system, and the Viceroy were to call a conference between representatives of that State and representatives of British India to settle the terms and conditions, it is manifest that some of these would depend upon the special circumstances of the case, though others would be always essential. For example, it would be essential that the State should have the right of sending its representatives to the Federal Legislature, but the number of those representatives might vary. Some of the States are very small; consequently, grouping, with the right of circulating representation between members of the group, might have to be considered in their case. It would be essential that the State should give up the right of imposing State customs duties, and equitable adjustments might be needed in other directions, but the settlement of figures would depend on many considerations. We need not pursue this matter further, for we are clear that it is not possible at this stage to suggest a precise scheme with so elaborate a range. Nor, if it were possible, would it be prudent to do so. These things are for discussion, and for decision at some future time. Our object in writing so much has been to help to get away from the region of pure generality and aspiration, and to direct attention, however tentatively and imperfectly, to some possible lines of future development when, after consultation with the States themselves, the time has come to discuss them.

The Need for Cautious Advance.

234. Federations come about only when the units to be federated are ready for the process, and we are far from supposing that the Federation of Greater India can be artificially hastened, or that, when it comes, it will spring into being at a bound. The practical question is whether at the present stage there are any definite but modest steps which might be taken by way

of tentative advance. The creation of the Chamber of Princes, the structure and working of which we have described in our earlier volume, was designed to put an end to the period when the Crown was only able to consult each State separately and individually. Notwithstanding that some of the most important States have held aloof from the Chamber, it has provided a valuable means for joint consultation with the others. While making due allowance for the limited functions of that body, we believe that its existence during the last nine years, and especially the work of its Standing Committee, have prepared the way for some further advance. But the Chamber is not in itself a federal organ, for it is exclusively concerned with Indian problems looked at from the side of the Indian States. Its only contact with British India is through its President, the Viceroy, and the Viceroy in this connection is the representative of the British Crown rather than the head of the Indian Government. What is now needed is some organ, however rudimentary, which will for some purposes, however limited, address itself to the treatment of matters which are of common concern to the whole of Greater India, not from the side of the Indian States alone, nor solely from the side of British India, but from both. Even if the new step is a very small one, it would be of profound significance, should it satisfy this condition. We hope that it may be found possible to make a beginning, and we have three concrete proposals to put forward.

Three Concrete Proposals.

235. First, we should like to see a serious and business-like effort now made to draw up a list of those "matters of common concern," which are so often referred to, but have seldom been defined, save by the use of one or two obvious illustrations. The making of such a list, in consultation and by agreement, would in itself do much to apply strict tests to a conception which cannot be usefully embraced without adequate definition. It may be that the first list will not be exhaustive, but we are going to propose a method by which further topics could be added to it under suitable safeguards from time to time. Secondly, we should like to see included in the Preamble to any new Government of India Act a recital which would put on record the desire to develop that closer association between the Indian States and British India which is the motive force behind all discussions of an eventual Federal Union. It would, of course, be absolutely necessary to make plain in the Preamble (what is at all times acknowledged and understood) that any such association can only come about if and so far as the Indian States desire that it should. And thirdly, we wish to suggest that steps should be taken now to devise the creation and setting up of a standing consultative body containing representatives both from British India and the Indian States, with powers of discussion and of reaching and recording deliberative results on

topics falling within the list of matters of common concern. It is clear that the machinery for joint consultation must precede anything in the nature of executive or legislative action on federal lines. The Butler Committee, in the second part of its Report, has recommended the setting up of special tribunals for adjusting a number of important matters which affect the Indian States and British India alike. We are, as we have already said, not seeking for a moment to go over ground which that Committee has covered; but the question is whether the time may not have arrived to set up some permanent machinery of consultation.

The Preamble and the List of Matters of Common Concern.

236. The details of this sketch may be filled in by other hands in various ways. In order that what we have in mind may be more clearly apprehended, we propose in this paragraph to develop with more precision, though only as a possible illustration, our ideas of what might be attempted. The Preamble of which we have spoken might contain a recital to the effect that it is desirable to make provision whereby such Indian States as so desire may be associated with British India in the consideration of matters of common concern between the Indian States and British India. The operative clause of the Act might provide that it should be lawful for the Crown to create by proclamation a Council for Greater India for the purpose of consulting on matters of common concern to British India and the Indian States. There would be a specific provision inserted that it was beyond the competence of the Council for Greater India to call in question or to discuss (*a*) the internal administration of an Indian State, or of British India, or of any part of it; and (*b*) the existence and exercise by the British Crown of its functions as Paramount Power. Matters of common concern would be listed in a schedule to the Act. The Council would consist of, say, 30 members, of which 10 would be representatives of the States. The majority of the States representatives would be nominated by the Chamber of Princes; the Viceroy might complete the list by invitation, so as to provide for the representation of those Indian States which do not form part of the Chamber. On the side of British India some of the members would be drawn from the Central Legislature by the use of the transferable vote; others would be nominated by the Viceroy. The Political Secretary would be a member *ex officio*. The Council would be presided over by the Viceroy, or in his absence by one of a Committee of four vice-Presidents, two from the States' side and two out of the contingent from British India. This Committee would assist the President to decide the agenda for meetings of the Council. There would be a Registrar at the head of any necessary secretariat. The various members of the Council would be chosen for a period of, say, five years; for the effective working of the Council and the creation of a

tradition as to the part it plays cannot be secured if its personnel is constantly changing. As regards the scheduled list of matters of common concern, we think that the best plan would be to mention certain topics specifically, and to add at the end of this specific list the phrase "together with such other subjects of common concern as the Viceroy from time to time certifies as suitable for consideration by the Council." This provides a power of expansion, and at the same time keeps the list of matters dealt with under proper control. The specific list might include :—

(1) The Customs tariff of British India.
(2) The Salt tax.
(3) Any other form of central taxation affecting the Indian States.
(4) Railway policy.
(5) Air communications.
(6) Trunk roads.
(7) Posts and telegraphs.
(8) Wireless.
(9) Currency and coinage.
(10) Commerce, banking, and insurance, so far as the matters raised affect both the States and British India.
(11) Opium policy.
(12) Indians overseas.
(13) Matters arising in connection with India's membership of, and participation in, the League of Nations.

The Council for Greater India.

237. We are well aware that what we have written raises many questions on which there may be points of difficulty and controversy. We do not claim to have worked out every detail. Our object is to present a plan which is sufficiently definite to be the subject of discussion, elaboration and amendment; and for this purpose we proceed to give some description of how in actual working such a Council might function. Its discussions would in some cases be in the nature of general debates, and in other cases would refer to concrete proposals. The Council would provide an opportunity for taking the Indian States into consultation about changes in the tariff. Even if contemplated changes could not be disclosed before the Finance Member of the Government of India announces, in presenting his Finance Bill, that they are contemplated, it would still be possible for the Council to meet and discuss the changes proposed before any changes are made. It might request the Viceroy, as its President, to invite the Finance Member to attend the Council and give a further exposition of his plans. The views of the Financial Adviser of an important State might by a similar process be laid before it, even though he is not a member of the Council. The views formed by the Council

would be recorded in a Report, which would include the record of any dissenting minority, and this Report should be furnished to the Central Legislature as well as to the Chamber of Princes. We are far from thinking that division of opinion would always follow the line that separates British India from the States. On the contrary, we believe that it will be found that there will be occasions when common interest and sympathy will cut across these lines. We think that some machinery might be devised by which, at any rate in important cases, these views might be expounded to the Central Legislature and to the Chamber of Princes, much in the way in which a Rapporteur acts at the League of Nations. A similar course might be followed with regard to other specific proposals which are before the Central Legislature, whether as Government measures or as Private Bills, in so far as they deal with topics mentioned in the schedule of matters of common concern. It may well be, however, that an even more important part of the work of the Council would be concerned with questions of general policy falling within the schedule of matters of common concern. There will be cases where the Council would appoint a Committee of its own body to sit with a Committee of the Central Legislature for discussing some of these general matters in considerable detail. There will be other cases in which the Council would appoint a Committee of its own body for investigating and reporting upon some aspect of the matters within its ambit. There should be a power to add experts for this purpose. The provision suggested above by which the Viceroy might add other matters of common concern to the list of specific subjects would enable an investigation to be undertaken by a Committee of the Council of the further steps which might hereafter be taken in developing federal relations.

The whole scheme for the Council, as we conceive it, is designed to make a beginning in the process which may one day lead to Indian Federation. What we are proposing is merely a throwing across the gap of the first strands which may in time mark the line of a solid and enduring bridge, and we feel convinced that the process must begin in organised consultation between the States and British India, both because such consultation is urgently needed in the interests of both, and because it will assuredly foster the sense of need for further developments, and bring more nearly within the range of realisation other steps which are as yet too distant and too dim to be entered upon and described.

PART VIII.—INDIAN FINANCE—MR. LAYTON'S REPORT.

[NOTE.—The whole of this Part is the report of the Commission's Financial Assessor, Mr. W. T. Layton. Recommendations by the Commission relating to proposals in Mr. Layton's report will be found in Part IV, Chapter 1, paras. 158–163 and Chapter 4, paras. 188 and 189.]

CHAPTER 1.—INDIA'S INADEQUATE REVENUE.

238. The annual income of the British people is estimated to be about £4,400 millions, or not far short of £100 per head of the population. According to the more optimistic of the estimates referred to in paragraph 374 of Volume I† of this Report, the average income of the people of India after the War was 107 rupees. Considering that prices have meanwhile fallen, it can hardly be put at a higher figure to-day. At the current rate of exchange this is equivalent to about £8 per head per annum. The proportion of this annual income which is taken in Britain by the tax gatherer and spent upon military and naval defence is about 2½ per cent., viz., £2 10s. 0d. per head. In the case of India, the expenditure upon the army is 2s. 7d. per head or, leaving out of account the Indian States and including British India only, 3s. 4d. per head or about 2 per cent. of the average annual income. But, whereas the amount collected by the Government and spent upon education in Britain is as much as £2 15s. 0d. per head, the amount spent on education in British India is less than 9d. per head.

These simple figures illustrate three of the chief features of the financial situation in India, viz. :—

The mass of the people are extremely poor.

She is incurring expenditure on the primary functions of government, such as defence and the maintenance of law and order, as high in proportion to her wealth as Western nations.

Her expenditure on social services such as education, health, sanitation, etc., on the other hand, is far behind Western standards, and indeed in many directions is almost non-existent.

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† See Vol. I, Part V, Ch. 1.

The insufficiency of India's revenues to provide adequately for the latter classes of expenditure has been a factor of political importance in that it has created dissatisfaction with the very small headway that it has been possible to make in the direction of social amelioration under the Reforms.

Possibility of Further Taxation.

239. But there is another figure to be considered and that is the ratio which the total tax revenue collected in India for both central and local purposes bears to the total national income of the country. Taking the preceding figures as basis, the ratio of total taxation to national income in India is only about 6 per cent. If the more pessimistic estimates of the national income per head in India, which place it at about 80 rupees, are correct, the taxation percentage works out at about 8 per cent. In Britain the proportion is about 20 per cent. It is perhaps even more significant that the ratio in Japan, which is an oriental country with a population whose standard of living is low, is also about 20 per cent. It is clear, therefore, that in comparison with other countries, the proportion of the income of the nation which is taken by the tax gatherer is low. It is commonly assumed that this ratio cannot be raised owing to the poverty of the people, and it is, of course, true that it is impossible to take in taxation as large a proportion of the income of people who are living on a bare subsistence level as is possible in cases where there is an appreciable margin over the minimum needs of life. But though the population of India consists in the main of extremely poor people, it is at the same time a country in which there are large accumulations of wealth on which the burden of government rests very lightly. In spite of the widespread poverty in India, I see no reason to doubt that the public revenues of India can be substantially increased without taxation becoming intolerable, provided that its incidence is adjusted to the capacity of tax-payers to pay and that heavy additional burdens are not put upon primary necessities.

On the other hand, there can be little doubt that, in conditions such as those which now obtain in India, it should be possible to stimulate production and to increase the welfare of the people by public expenditure designed to give greater economic security (by irrigation works, improved and more varied methods of cultivation, etc.), better physical well-being (sanitation, water supply, improved public health, etc.), and education. Indeed, taxation may be the only practicable means of creating a better and more secure livelihood.

But, in order to achieve this, the proceeds must be wisely spent. On this point the Report of the Commission's Auxiliary Committee on Education sounds a serious note of warning, when

it points out that in the primary system of education in India "the waste is appalling."† In spite of devoted efforts and of much increased expenditure, "the vast increase in numbers in primary schools produces no commensurate increase in literacy, for only a small proportion of those who are at the primary stage reach Class IV, in which the attainment of literacy may be expected."† And again, "powers have been devolved on local bodies in such a way that the Ministers responsible to the legislatures have no effective control of the expenditure of money voted for mass education."* Clearly, the task of influencing the life and economic circumstances of the vast Indian population is not to be accomplished by mere indiscriminate spending. It will not be overlooked, however, that one of the reasons for the poor results achieved is that efforts are being made to spread education more extensively than can be done effectively with the available supply of teachers (56 per cent. of the teachers in boys' primary schools are untrained, and the average monthly salaries in some cases "almost incredibly low"), buildings, inspectorate, etc. The conclusion of the Committee is not, therefore, that the undertaking is hopeless, but that it must be carried out with great discrimination. In the case of agricultural improvement and all other social services in India, we must assume that similar difficulties will be met with and will have to be overcome.

In spite, however, of these considerations, I venture to take two propositions as the underlying assumptions of my report, namely, that it is both possible and desirable to improve the economic and social condition of the Indian people by a substantial increase in expenditure on the "nation-building" services, and secondly, that it is possible, subject to the conditions I have mentioned above, to raise additional revenues for this purpose.

Constitutional Reasons for Inadequate Revenues.

240. There are, however, several reasons why little has been done to increase taxation, which are closely related to the constitutional situation.

In the first place, new taxes must either secure the approval of the elected members of the provincial legislatures or of the Central Legislative Assembly as the case may be, or else must be raised by the exercise of the exceptional powers of the Governor or the Governor-General. Neither elected representatives nor the Government are willing to go very far in this matter. So far as the former are concerned, members of neither the provincial nor the central legislatures are willing to incur the unpopularity of voting increased taxation so long as there are no means of ensuring that the revenue will be spent on services which they might wish to develop or so long as it can be argued that resources might

† Ed. Report, page 345.
* Ed. Report, page 347.

be obtained by reducing expenditure on services not under popular control, such as the Police in the provinces and the Army at the Centre. On the other hand, there is at present no provision in the constitution by which the Central Government could use its resources to subsidise the social services falling within the provincial sphere, even if it wished to do so; and in any case there are very definite limits to the extent to which an irresponsible Government can force increased taxation on a poor country. Hence, neither legislatures nor Government have been willing to take action.

In the second place, the financial relations between the provincial and central Governments are by no means satisfactory. In every State which includes both central and local or provincial organs of government, the appropriate financial relations between the former and the latter depend upon :—

(*a*) the functions constitutionally assigned to the central and provincial authorities respectively, and

(*b*) the nature of the sources of revenue of the State in question.

Whereas there are certain classes of taxes the rates of which may vary from locality to locality within a State, there are others which should be uniform. Administrative considerations also make it desirable that certain forms of taxation should be under a uniform administration. The problem of financial relations between the central and provincial authorities in any country is ideally solved where the sources of revenue which, from the administrative point of view, fall naturally within the sphere of the provincial Governments, harmonise so far as their yield and elasticity is concerned with the functions which are assigned to those Governments, while those which are naturally central sources accord with the functions of the Central Government.

One of the chief difficulties of the Indian financial problem is that this harmony between the distribution of functions on the one hand and the allocation of sources of revenue to the provinces and the Centre respectively, on the other hand, is lacking. Indeed, the contrary is the case, for whereas nearly all the functions which will require large expenditure in the future fall within the provincial sphere, the revenues assigned to them show a quite inadequate increase, while the Central Government, whose expenditure should be stationary or falling, has assigned to it the only revenues which in recent years have shown expansion.

Finally, the problem is complicated by the fact that the present settlement has left the various provinces very differently situated financially, and this has created friction and dissatisfaction. The result has been to concentrate attention on endeavouring to secure a redistribution of existing resources rather than on increasing the total available funds.

Revenue and Expenditure.

241. The first of these three considerations raises the question whether it is really necessary to find fresh resources at all, and whether additional needs cannot be met by drastically reducing existing expenditure. It is outside the scope of my report to express an opinion upon either the efficiency and economy of the administration in India generally, or the large questions of policy involved in considering the scale of existing expenditure on defence or other purposes—though the analysis which follows may throw some light on the financial aspect of this latter problem. I do not in any way underrate the importance of reducing existing expenditure wherever possible or the results that might be achieved by the strictest economy, especially since the system of a non-responsible Government at the Centre and of dyarchical Governments in the provinces must inevitably afford opportunities for extravagance; it will also be evident from what follows that the dominant factor in India's financial situation is her large expenditure on the Army. But it may safely be assumed that the utmost administrative economies or any reduction that can be contemplated in the Army budget would not yield a sufficient margin to finance without additional resources the large expenditure that will be needed, if India is to make satisfactory progress socially and economically.

Conditions of Financial Reform.

242. If this assumption is justified and if larger revenues are to be raised, it follows from a consideration of the difficulties above mentioned that any new constitutional change should endeavour to ensure :—

(*a*) that responsibility for imposing additional taxation is definitely laid upon those who will have to incur additional expenditure;

(*b*) that sources of revenue appropriate to their requirements are available to those authorities who have urgent and expanding services to administer, and

(*c*) that all parts of India shall make an equitable contribution to common purposes.

It is the purpose of my report to consider whether it is possible to frame a financial scheme in accordance with these conditions.

CHAPTER 2.—PRESENT FINANCIAL RELATIONS.

Pre-Reform Situation.

243. It will be observed from the fiscal history of India given in the first volume of this report that India had a highly centralised system of administration before the Reforms.* All the principal heads of revenue collected within the provinces were divided between the provinces and the Central Government; but subsidies, both recurring and non-recurring, from the Centre to the provinces were needed to supplement the provincial revenues and were an important feature of the financial arrangements. The total revenues of the provinces, whether derived from their share of taxes locally collected or from subsidies were in theory based on provincial needs, but since no definite standards of needs had been worked out, they were in practice largely the result of history and tradition. Considerable differences in the standards and methods of administration were inevitable under such conditions.

The Joint Report and Federal Finance.

244. The Montagu-Chelmsford Report proposed to sweep away this system, and, in accordance with the policy of creating a sense of provincial autonomy, to give the provinces a constitutional control over certain resources, which they could increase or decrease at will. In certain passages of the Report the authors went further than this and laid down that all the fiscal resources of India ought to be at the disposal of the provinces, except that a deduction should be made for the requirements of the Central Government. These passages in the Report evidently conceived the needs of the Central Government as being comparatively limited, whereas those assigned to the provinces were liable to indefinite expansion. Under the scheme of distribution of functions envisaged in the Report this is a sound view. In time of peace, the military budget should be a stationary or diminishing burden and not an increasing one. National enterprises, such as the Post Office and the Railways, should feed and not be a charge upon the central exchequer; and while the functions of the Central Government in civil administration may be expected to grow, the expenditure involved is a very small affair indeed compared with that required for a nation-wide development of education, for the improvement of public health and of sanitation, for the services charged with the great task of increasing the economic productivity of India and for the many other functions which have been definitely placed within the sphere of the provinces.

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* See Volume I, Part V, Chapter 2.

The Report however did not carry this doctrine to its logical conclusion by assigning all revenues to the provinces and making them contribute on an agreed basis to the central exchequer. Such a plan might be feasible in the case of a federation of independent states coming together for the first time and deciding to entrust certain functions, e.g. Defence, to a central authority towards whose expenses they should each pay a definite contribution. Even in such circumstances, however, this method has very rarely been adopted, the more general solution being to allocate to the central or federal authority certain definite sources of revenue. In the case of the federation of the thirteen original members of the United States of America, for example, the customs revenue was from the outset assigned for federal purposes.

If the plan of financing a central Government by assigning to it specific revenues rather than by contributions from the various units has usually been adopted in the case of states coming together for the first time, it is not surprising that a division of resources was adopted in India, which started as a highly centralised state and was only moving step by step in the direction of decentralisation. Indeed, the idea that all revenues should be taken by the provinces, subject only to such contributions to the Centre as might be agreed upon, is scarcely a feasible proposition unless the provincial units of a state have full power to determine the scale and nature of the expenditure of the Central Government. So long as the latter has the responsibility of deciding, independently of the provinces, how large its budget is to be, it must clearly have complete control over certain classes of taxation which it can vary and collect on its own responsibility or have the power in the last resort of taking over provincial sources of revenue.

The Montagu-Chelmsford Report, therefore, tacitly abandoned the theory of the Centre being supported by contributions from the provinces and proposed to solve the problem of financial autonomy by abolishing divided heads of revenue and allocating certain revenues entirely to the provinces and others entirely to the Central Government.

In the Government of India Act, the conception of all taxes being in the hands of the provinces was even more specifically abandoned, for after allocating certain heads of revenue to the provinces, and after providing for the drawing up of a schedule of taxes which the provinces would be at liberty to impose without the sanction of the Central Government, the residuary powers of taxation were left in the hands of the Central Government.

The Meston Committee Proposals.

245. The actual allocation which was made in 1920 by the Joint Select Committee on the advice of the Meston Committee

follows, with two minor changes, the allocation suggested in the Montagu-Chelmsford Report. It is as follows :—

Central.	*Provincial.*
Customs and Excises, other than alcohol and narcotics.	Land Revenue.
Income Tax and Super Tax.	Excises on alcohol and narcotics.
Salt.	Stamps.
Opium.	A share in the future increase of Income Tax.
	Registration Fees.

The central budget also includes a share of the profits of the Railways and any surplus profit that may arise from the Post Office or any other national undertaking. The provincial budgets include proceeds from Irrigation Works, Forests, and other State domain.

Provision was made for temporary contributions from the provinces to the Central Government (which varied with the increased revenue which the various provinces were expected to enjoy under the scheme) in order to meet the deficit in the central budget that would have resulted from the complete separation of the sources of revenue. These contributions, however, have, as has been explained in the first volume, since been finally abolished, and the clear-cut allocation indicated above now governs the finances of the Central and Provincial Governments respectively.*

Criticisms of the Meston Settlement.

246. As I have already indicated, this system has certain serious defects, the three chief criticisms being the following :—

(*a*) Although the provinces have rapidly expanding needs, the sources of revenue assigned to them are insufficient and show no signs of adequate growth, whereas the central sources of revenue which have to meet comparatively stationary needs are expanding, or capable of expansion.

(*b*) It has treated the provinces unequally, by giving some of them a much greater proportionate increase of revenue than others.

(*c*) It has given practically no power to the provinces to tax industrial activities, and has, therefore, handicapped the industrial provinces, as contrasted with the agricultural ones.

In order to elucidate these points and to explore the possibility of devising a plan that will meet these difficulties, it is necessary to survey in some detail the present position and recent history of budgets both of the Centre and of the provinces.

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* See Volume I, Part V, Chapter 4.

CHAPTER 3—SUMMARY OF FINANCIAL SITUATION.

Balance Sheet of India's Finances.

247. The following table presents a balance sheet of India's central and provincial finances, from which can be clearly seen the relative importance of the various items of revenue and expenditure.

Budget Estimates of Revenue and Expenditure of Central and Provincial Governments in 1929–30 (*in crores of rupees. One crore of rupees*=£750,000).

Central Revenue.	
Customs	51·22
Income tax...	16·60
Salt	6·35
Other taxes...	1·19
Total taxes...	75·36
Railways (net)	6·25
Opium (net)	2·35
Currency and Mint (net) ...	2·35
Tributes from Indian States	·74
Other receipts (net) ...	1·17
Total	88·22

Central Expenditure.	
Defence (net)	55·10
Debt charges (net)... ...	12·19
Civil Administration (net)	11·56
Loss on post office, irrigation and forests	·39
Cost of collection	3·32
Civil works (net)	2·41
Pensions	2·78
Other expenditure (net) ...	·47
Total	88·22

Provincial Revenue.	
Land Revenue	35·48
Excise	19·44
Stamps	14·35
Registration	1·47
Scheduled taxes	·39
Total taxes...	71·13
Forests (net)	2·07
Irrigation (net)	2·77
Other sources of revenue ...	12·28
Total	88·25

Provincial Expenditure.	
Land Revenue and General Administration	15·76
Police	12·28
Jails and Justice	8·31
Debt	3·24
Pensions	4·05
Education	12·57
Medical and Public Health	6·38
Agriculture and Industries	3·53
Civil Works	11·84
Other expenditure... ...	9·00
Total	86·96

Thus on the expenditure side, debt absorbs 15 crores, defence 55 crores, law and order, justice, etc., 21 crores, general civil adminstration (including land revenue) 27 crores, and pensions 7 crores. Education accounts for 13 crores, health and medical services 6½ crores, agriculture and industry 3½ crores, while the expenditure on civil works amounts to 14 crores.

On the other side of the account, out of 146 crores of taxation, customs produce 51 crores, land revenue 35½ crores, alcoholic excise 19½ crores, income tax nearly 17 crores, stamps 14½ crores and salt 6½ crores.

Expenditure on Defence.

248. An outstanding feature of this summary is the high proportion (62½ per cent.) which current expenditure on defence bears to the total expenditure of the Central Government—a higher proportion in fact than in any other country in the world. This ratio is not in itself, however, very instructive, since it depends on the functions performed by central Governments. In the case of a federation, for example, which combined for purposes of defence only, military expenditure would absorb one hundred per cent. of the federation's budget. It is more significant that even when account is taken of provincial and central expenditure together, the ratio (31½ per cent.) is still a very high one. This ratio is high in part because other kinds of expenditure are low. India has a comparatively small unproductive debt, while many forms of Government service are very little developed.

On the other hand, it is to be remembered that the extent to which taxation is felt as a burden depends very largely on the objects on which a Government spends its revenue. Thus, it has been frequently pointed out that taxation for the purpose of paying interest on an internal debt is economically speaking a transfer of wealth within a country, which may—it is true—hamper enterprise, if the method of raising the revenue is unwise, but which need not do so or affect the total saving power of the community. Again, wise expenditure on social services and particularly on health and education should be remunerative in the sense of increasing the wealth-producing power and, therefore, the taxable capacity of a country. Security is, of course, essential, if production is to develop; but it cannot be claimed for expenditure on defence either that it is a mere redistribution of income or that it promotes productive efficiency. Indeed, economically speaking, it is the most burdensome form of expenditure, and this is particularly the case where, as in the case of India, the Army contains a large element drawn from elsewhere. If, therefore, the high "defence ratio" in Indian Government expenditure is partly due to the low level of other expenditure, it remains a peculiarly burdensome one, and it would be reasonable to assume that, even if the total expenditure of India were increased, the burden would be more tolerable and more readily borne, provided this particular charge were diminished.

But apart altogether from the question of other forms of expenditure in India, the defence charge is undoubtedly high. A recent comparison of the military expenditure of the nations of the world shows that in this respect India is seventh on the list among the Great Powers and that her expenditure on armaments is between two and three times as great as that of the whole of

the rest of the Empire outside Great Britain.* Again, the total is not only high in itself and as compared with other countries, but it has also greatly increased as compared with the pre-war situation. India, in fact, has not obtained any relief from the greater sense of world security, which has succeeded the World War. On the contrary, her defence expenditure has risen even after allowing for the rise in prices and has grown more rapidly than in other parts of the Empire. This is apparent from the following figures quoted by Mr. Jacobsson in the summary already mentioned :—

Armaments Expenditure (in million £).

—	1913.	1928.	Percentage increase.
Great Britain	77·2	115	+ 48·9
India	22·0	44	+100·0
The Dominions	9·0	12	+ 33·0
Total	108·2	171	+ 58·33

The figures were given by Mr. Jacobsson in sterling for purposes of comparison. Only a part, however, of India's defence expenditure is paid in sterling. The figures would only show an increase in rupees of 66 per cent. owing to the change in the par value of the rupee. The rise of wholesale prices in India is only 41 per cent.†

Finally, it is frequently urged that expenditure for the defence of India is not a matter that concerns India only, but is also one which is of vital importance to the Empire as a whole and should, therefore, not be at the sole charge of India. This is a matter outside the scope of my report, as is also the question

* The following figures of armaments expenditure are extracted from "Armaments Expenditure of the World," by Mr. Per Jacobsson, Secretary General to the Economic Defence Council of Sweden, and formerly a member of the Secretariat of the League of Nations.

United States	4,453 million gold francs.
Great Britain	2,900 " " "
Russia	2,440 " " "
France	2,286 " " "
Italy	1,333 " " "
Japan	1,215 " " "
India...	1,069 " " "
Germany	942 " " "

The figures for members of the Empire other than Great Britain are Australia 151, Canada 93, Irish Free State 76, New Zealand 25, and South Africa 25 million gold francs.

† The wholesale price Index numbers are 143 and 201 for 1913 and 1928 respectively.

as to what is the minimum expenditure required for the defence of India and for the maintenance of internal security. But it is relevant to my present purpose to point out that the total is at present so large, both absolutely and in relation to the revenues of India, as to be a dominating factor in the financial situation.

The Central Budget.

249. In recent years, the central budget, like those of most of the provinces, has exhibited all the signs of a very tight fit between income and expenditure.

Since the War the Central Government has raised and then reduced the salt duty†; it has made very large additions to the customs tariff, while the income tax until the current year remained at the maximum reached in 1922.* Thanks, on the one hand, to a big reduction in total expenditure as soon as war commitments were disposed of, and, on the other, to a growing customs revenue and a substantial contribution from the Indian railways, where a heavy deficit has been converted into a handsome profit, the large deficits of the years immediately following the War have disappeared and it has been possible not only to reduce or abolish certain taxes, but to remit altogether the contributions of the provinces referred to in paragraph 245. The accounts for 1927-28 and 1928-29, however, show a deficit. The budget for 1928-29 was originally expected to show a surplus of 30 lakhs, but in the last two months of the year there was a setback under several headings and a heavy drop in the revenue credited from the gold standard reserve, as a result of the fall in the price of gilt-edged securities, following the rise in bank rate in February, 1929. The result was a deficit which with that of the previous year completely absorbed the revenue reserve which had previously been accumulated. The receipts from the gold standard reserve increased again in 1929-30, but other items have fallen, and there would have been yet a third deficit had it not been for a windfall in connection with the liquidation of German property. Thus, as the Finance Member pointed out to the Assembly, it is evident that budget equilibrium had not been fully re-established after the final remission of the substantial contributions previously paid by the provinces. The budget for the current year, therefore, proposes increases of taxation amounting to the substantial sum of 4·80 crores with a view to (*a*) establishing equilibrium, (*b*) maintaining Indian credit by making full provision for debt redemption, including accruing liability on Savings Certificates, and (*c*) providing a margin for contingencies and for assisting the provinces.

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† Salt tax remained at Rs. 1¼ per maund (82 lbs.) since 1916 except for one year when it was raised to Rs. 2/8 (1923-24).

* Income tax rates were changed in 1919, 1921 and 1922.

The following figures show the revenue and expenditure of the central budget for a period of ten years, the provincial contributions being separately shown :—

Revenue and Expenditure of the Central Government.

1921-22 *to* 1930-31 (*Budget*).

(*In crores of rupees.*)

One crore of rupees = £750,000.

—	Revenue (excluding provincial contributions).	Expenditure.	Surplus + or Deficit −.	Provincial contributions.	Net Surplus + or Deficit −.
1921–22 ...	65·06	102·54	−37·48	9·83	−27·65
1922–23 ...	74·71	98·93	−24·22	9·20	−15·02
1923–24 ...	80·00	86·81	− 6·81	9·20	+ 2·39
1924–25 ...	85·44	88·96	− 3·52	9·20	+ 5·68
1925–26 ...	85·63	88·52	− 2·89	6·20	+ 3·31
1926–27 ...	85·05	87·26	− 2·21	5·17	+ 2·96
1927–28 ...	82·95	85·16	− 2·21	—	− 2·21
1928–29 ...	85·43	86·49	− 1·06	—	− 1·06
1929–30 (Revised Estimate).	88·12	87·77	+ 0·35	—	+ 0·35
1930–31 (Budget)	90·23	89·53	+ 0·70	—	+ 0·70

Note.—In this statement Customs, Income Tax, Salt, Tributes and Revenue (Land Revenue, Excise, Stamps, etc.) from the directly administered areas have been taken gross and all other items net. Net profits or losses from railway and postal services have been added to or deducted from the revenue figures as the case may be.

Thus, the accumulated deficits since the Reforms amount to no less than Rs.80 crores, towards meeting which the provincial contributions provided some Rs.50 crores. The figures clearly bring out the substantial growth of revenue, on the one hand, and the stability of expenditure since the rapid fall of the years 1921-4, on the other.

Revenue Growth in the Last Decade.

250. There are, however, a number of miscellaneous items included in these accounts. The trend of events is much more clearly shown in the following statement of the yield of the

chief sources of revenue, namely, customs, income tax, railways, salt and opium :—

Receipts from chief items of Revenue.
(Crores of Rupees.)

Year.	Customs.	Income Tax.	Railways.	Salt.	Opium (net).
1921–22	34·41	18·74	–9·09	6·34	1·27
1922–23	41·35	17·99	1·22	6·82	1·92
1923–24	39·70	18·24	6·44	10·02	1·66
1924–25	45·75	16·01	6·78	7·39	1·44
1925–26	47·78	15·86	5·49	6·33	2·04
1926–27	47·38	15·65	6·01	6·70	3·33
1927–28	48·21	15·06	6·28	6·63	3·08
1928–29	49·28	16·70	5·23	7·60	2·72
1929–30 (revised)	49·72*	17·10	6·12	6·72	2·59
1930–31 (Budget)	53·40*	18·00	5·74	7·05	2·07

For some years, the income tax, salt duty and railway receipts showed a practically stationary yield, while customs rose continuously, though the figure for 1930-31 on the previous basis of taxation would be only 49·30 crores. Latterly, the yield of income tax has slightly improved, but here again 70 lakhs of the increase in 1930-31 is due to the current budget changes. The opium duty has been dwindling, but the expansion in other sources has more than made good the deficit. This drag upon the revenue will continue for a year or two, for the receipts from opium will almost entirely disappear by 1935.

The yield of the first two items has been lifted to a rather higher level by the 1930-31 budget, which makes changes in customs and excise, that will increase revenue under this head by 4·1 crores (cotton duties 1·25 crores, sugar 1·80 crores, alteration of kerosene duties 35 lakhs, silver duty 1 crore, less reduction of rice duty 30 lakhs), and by adding one pie in the rupee to the rate of income and super tax on incomes over 15,000 rupees, will increase the yield by 70 lakhs.

Revenue Prospects.

251. Looking a little way ahead, the key to the situation is clearly to be found in the yield of customs revenue. If the recent trend should continue, a definite upward movement will be seen in the total budget figures when the opium revenue disappears from the budget, and this upward trend will be strengthened by growing income tax receipts, if and when industrial stagnation passes away.

* The revised figures for 1929/30 differ slightly from the original budget estimates in para. 247. The customs figures for the last two years exclude receipts from the petrol tax (95 lakhs in 1929/30 and 108 lakhs in 1930/31) which are offset by grants to the Road Fund.

Can we assume that this increase in customs revenue will continue? India has been singularly free from monsoon failures in recent years. When they recur—as they inevitably will—experience shows that they will reduce not only purchasing power, and therefore imports, but also railway receipts from the carriage of goods. In this latter connection, a monsoon failure should not have as serious an effect on the central budget as in former times; for, since the separation of the railway budget, the net railway receipts have not been wholly credited to general revenues, which now receive a definite contribution from railway funds of 1 per cent. of the total capital expenditure on railway construction, *plus* a portion, generally one-fifth, of the surplus profits. A bad monsoon will affect the surplus, but the contribution of 1 per cent., which in 1927-28, it may be noted, was more than six times the fluctuating portion, will continue to be paid. A monsoon failure would, however, affect the general purchasing power of the country, and, therefore, the receipts from customs; and although transport developments, the diversification of India's economic activities and any rise that may have taken place in the standard of life in certain parts of India may mitigate its effect, it would not be prudent to assume that the steady rise of imports and of customs revenue, that has taken place in the last decade, will continue without interruption. Indeed, the rise has been checked at the moment by the almost universal setback to trade.

On the other hand, there are reasons for thinking that the economic development of India in the next ten years should be much more rapid than in the last decade. Several gigantic irrigation projects, which will bring millions of acres under cultivation, are now nearing completion in Sind, the Punjab and Madras; railways are being extended as fast as funds permit; the requirements of rapidly developing motor transport have necessitated the constitution of a Standing Committee on Roads, whose efforts will undoubtedly result in an improvement and extension of the road system; three harbours (Vizagapatam, Cochin and Tuticorin), which are in course of construction, will be open for traffic before long. It is to be expected that with this economic progress, foreign trade, which is extremely low per head, will substantially increase and, with it, the yield of customs. In this connection, it should be pointed out that the rise in recent years has occurred as a result of a greater volume of trade rather than of higher rates of duty. The total of India's imports, calculated at pre-war prices (in order to eliminate the effect of price changes and to show the increase in the volume of trade), rose from Rs.120 crores in 1923-24, 137 crores in 1924-25, 143 crores in 1925-26, 156 crores in 1926-27, and Rs.181 crores in 1927-28, to Rs.190 crores in 1928-29, an increase of more than 58 per cent. in six years.*

* Review of the Trade of India 1928–29 (Government of India, Central Publication Branch) page 7.

These considerations suggest that, though there may be setbacks, the growth of India's foreign trade, which has recently been very rapid, is likely to continue at an even faster pace than heretofore. But there is one qualification. This conclusion is to a certain extent contingent on fiscal policy. The standard rate of duty of India's tariff, viz., 15 per cent. with 30 per cent. on luxury goods, is already high for a mainly agricultural country, and, in some cases, rates have been put so high as to be prohibitive. The match duty, for example, has almost ceased to yield any revenue at all. Up to the present, the increase of revenue has largely been obtained from a few main items, such as sugar, cotton goods, oil imports, jute exports, etc. But the revenue from miscellaneous imports has been increasing and may be expected to expand. It is possible that in a number of cases duties are already at or beyond the point of maximum yield, and that more revenue might be obtained from a general lowering of rates. Moreover, it might be worth while, even from the purely revenue point of view, to lower duties, even at the risk of losing revenue at the moment, for the sake of encouraging the general economic development of the country. On the other hand, a policy of high protection, though it might stimulate the creation of particular industries in India, would be a charge on the existing economic activities of India, and would prevent the expansion of revenue which is here contemplated.

Subject to this proviso, and taking all factors into account, it would not be extravagant to anticipate a total revenue from existing central sources, on the present basis of taxation, of nearly Rs.100 crores by 1940.

Expenditure.

252. The next table analyses the figures of the chief items of expenditure, the total of which, as we have seen, has been stationary in the last six years :—

Chief Items of Central Expenditure.

(Crores of Rupees.)

Year.	Military Services (net).	Civil Administration (net).	Debt. Services (net).
1921–22	69·81	8·64	14·89
1922–23	65·27	9·50	15·00
1923–24	56·23	8·65	14·17
1924–25	55·63	9·39	15·27
1925–26	56·00	9·87	14·12
1926–27	55·97	10·28	12·66
1927–28	54·79	10·22	11·99
1928–29	55·10	10·43	12·82
1929–30 (revised)	55·10	11·56	12·19
1930–31 (Budget)	54·35	12·20	14·36

The Army.—The military budget was stabilised in 1928 for four years at 55.1 crores, during which period any savings made were to go towards the programme of army mechanisation which has been undertaken. Sir George Schuster has, however, arranged with the military authorities to bring the savings already made—to the extent of 80 lakhs—into credit at once and to provide for the needs of the new programme by extending the period of stabilisation to a fifth year. This item will therefore presumably remain at its present figure until 1932-3. At the end of this period of stabilised expenditure and in the absence of war, army expenditure should be capable of reduction. In this connection, the Inchcape Committee suggested a standard figure of Rs. 50 crores, if prices fell. Some downward movement of prices has in fact taken place since the date of its Report, but the Committee did not give any indication as to how great a fall of prices would be needed to justify this reduction. There is, however, ground for hope that, when the present programme of mechanisation is ended and apart altogether from any change of policy, the Army vote may drop to, say, 52 crores and thereafter will fall still further to bring it more nearly into conformity with the lower level of prices.

This estimate of 52 crores may be affected by the result of discussions, which it is understood are now proceeding between the Indian and British Governments, on the War Office claim for an increase in the " capitation charges " (now amounting to Rs.2 crores annually) which are paid for the training in England of recruits for the army in India, and on the counter-claim of the Government of India that she should be released from the existing capitation payment and that as the cost of the defence of India is an Imperial liability some contribution should be made to it from other than Indian sources. Any concession to the Indian point of view in these matters would reduce the defence budget still further. Two other ways of reducing the army budget have been suggested. One is the progressive Indianisation of the officers of the Indian Army. The evidence laid before the Commission, however, suggests that this process must be slow and in any case will not save much money. The other is the substitution of Indian Army units for the much more expensive units of the British Army in India. It cannot, however, be taken for granted that Indian units would be of equal military value and, if more units had to be employed, some of the presumed savings would be lost.

But these are matters of general or of military policy, though they have a financial aspect. Whether anything is done in regard to them or not, there seems no reason, in the absence of wars, to fear any rise in the army budget, and in two or three years a reduction in the total figure should commence.

General Administration.—As to the cost of general administration, it is commonly said, and with justice, that the Indian

Government is expensive, owing to the level of salaries in the upper grades of the Indian Services, which have had to be fixed on a standard high enough to induce British members to leave their home country and to work for the best part of their lives in an uncongenial climate. So long as British personnel is still required, these standards must continue. But the arguments for it do not apply to Indian members of the Service. At the same time there are strong objections to having two rates of pay for the same job. The only way to meet the difficulty would be to lower standard salaries throughout the Service, but to increase the overseas allowance for the British members. This question, however, affects the provincial budgets much more than the central budget, as the charge on the latter in respect of salaries for members of the civil service generally is comparatively small. The Finance Member has recently called attention to the need for an understanding with the provinces as to the principles on which increases of pay are granted.

In the meantime, automatic increases in time scales of pay already fixed involve at present a steady growth, at the rate of 25 lakhs a year, in the salary bill of the Central Government, the peak point of which has not yet been reached. Further, there will certainly be many new demands for greater expenditure. Civil aviation and research are responsible for part of the increase of recent years, and the Agricultural Commission and the Educational Committee of the present Commission have put forward suggestions involving additional charges on the central budget. The growth of such items depends on the extent to which the Central Government will become involved as a co-ordinating influence or in connection with research in services which are primarily within the provincial sphere. Some expansion of central budget expenditure in these directions must be looked for; but there is no reason to anticipate that the total under this head will grow faster than in the last decade, unless additional duties are put upon the Central Government.

Debt.—There remains the debt charge. Reference has already been made to the opinion of the Finance Member that until the present year, equilibrium in the central budget had not been fully re-established, and to the effect, in this connection, of the growing charge for the redemption of Savings Certificates. A year ago, moreover, there was uncertainty as to the rate at which maturing obligations could be renewed. There was, therefore, room for doubt as to whether the downward trend in the service of the debt would continue. Taking a broad view, however, and speaking in general terms, it may be assumed that the world rate of interest is tending downward, and, if there is no serious disturbance of India's credit, and if India does not over-borrow, the price to be paid for renewal of debt should not increase. Moreover, seeing that a definite programme has been established for the redemption of the debt, and that provision

has now been made for the maturing Savings Certificates, the total net charge in respect of the debt should hereafter tend downwards.

Conclusions as to Expenditure.

253. If these expectations are realised, and in the absence of any new functions being imposed upon the Central Government, the total expenditure of the Central Government should be stationary or falling. This, in conjunction with a rising revenue, would mean that there will gradually emerge a growing surplus in the central budget, the size of which largely depends on military expenditure. This conclusion is subject, however, to an important qualification. These expectations both as to the expansion of the revenue and the reduction of the debt and other charges are dependent on the continuance of internal peace and security. They would be completely falsified by any developments which might involve the Government in exceptional expenditure, shake the credit of India, or check the development of trade.

Provincial Budgets.

254. Turning to the provinces, the total revenue and expenditure figures for the nine provinces of British India since the Reforms is shown below :—

(In crores of rupees.)

Year.	Revenue.	Contributions to Central Government.	Retained Revenue.	Expenditure.	Surplus+ or Deficit—.
1921–22	80·26	9·83	70·43	79·16	—8·73
1922–23	84·94	9·20	75·74	77·23	—1·49
1923–24	88·05	9·20	78·85	76·09	+2·76
1924–25	90·48	9·20	81·28	78·41	+2·87
1925–26	93·71	6·20	87·51	85·89	+1·62
1926–27	91·60	5·17	86·43	90·17	—3·74
1927–28	93·29	—	93·29	91·50	+1·79
1928–29	91·49	—	91·49	92·91	—1·42
1929–30 (budget).	96·56	—	96·56	95·27	+1·29

The revenue figure for 1929-30 is the sum of the budget estimates of the provinces, which in recent experience have usually been in excess of the receipts actually realised. The figures up to 1928-9, in respect of which audited accounts are available, show that expenditure has risen substantially, the rise since 1923-24 being no less than 22 per cent. But revenue has increased by only 4 per cent., and it is clear that since 1925-26 the expansion in total revenues has been checked. This is in marked contrast with the situation at the Centre, as may be seen by comparing

this table representing the above figures with that showing the central budget situation. The continued increase in the total expenditure of the provinces since that date has been made possible by the remission of the provincial contributions, the benefit of which, however, has been confined to a few of them.

Revenue.

255. The reason for the stagnation of revenue will be apparent from a consideration of the chief items of provincial revenue set out above in paragraph 247.

The Land Revenue.—The first in importance is Land Revenue, which, before the War, was by far the most important of India's sources of revenue. To-day it is largely exceeded by customs revenue. It remains, however, one of the two main props of Indian finance. Much controversy has taken place as to whether Land Revenue is in the nature of rent, or is a tax. Without going into this question, it may be observed that whether it is regarded as a tax or not, it shows many characteristics of rent, and in particular, like rent in all countries of the world, has failed to respond to the upward movement of the general price level. Land Revenue (excluding revenue due to irrigation) has risen by only about 7½ per cent. since 1913.* It is not possible to ascertain from public accounts the cost of collection of Land Revenue, as this cost cannot be separated entirely from the cost of general administration. But there is little doubt that if it could be separated and deducted from the gross Land Revenue receipts, the net yield of Land Revenue would actually show a decline. When account is taken of the upward movement of prices and salaries, this comparative stability of Land Revenue means that its real value as a contribution to the cost of government has diminished. On the other hand, it means that, in so far as the produce of the soil is converted into cash, either the cultivator or the zemindar has greatly benefited. There is no doubt that in some cases it is the cultivator who has gained.

Both the landlord and the peasant interests, however, are united in resisting any increase of Land Revenue. In Bengal, Bihar and parts of the United Provinces and Madras, where the "permanent settlement" exists, there is no possibility of raising Land Revenue without breaking this very long standing agreement. But even where there is regular periodical reassessment, there is a growing tendency to press, if not actually for permanent settlement, for a very slow and gradual modification

*		Land Revenue.	Index number of prices.
1912–14 (average)	...	32·01	143
1927–29 (average)	...	34·43	201
Increase	...	7½%	41%

of Land Revenue. Certain provinces have either passed legislation or framed regulations which

(*a*) lengthen the period between the re-settlements—commonly from 30 to 40 years:

(*b*) limit the percentage increase that may be made at any one re-settlement—for example, in Madras the maximum increase is 18¾ per cent.; and

(*c*) restrict the percentage of the net assets of the land that may be taken by Land Revenue, e.g., a minimum of 30 and a maximum of 40 per cent. is prescribed in the United Provinces.

All this means that, in addition to the natural stability of revenue of this kind, legislative or administrative obstructions are being imposed, which prevent Land Revenue responding to post-war economic conditions.

Excises.—As regards liquor excise, the yield is in some provinces rising, but in others it has been fairly stationary; and everywhere it is threatened by a strong prohibition movement. In one or two districts there are areas which are already "dry" in the sense that no premises are licensed for the sale of liquor. Several provinces are definitely committed to the policy of ultimate prohibition, and in one case (Madras) a grant was actually included in last year's budget (1929) for temperance propaganda. The doctrine of maximum revenue and minimum consumption is in theory generally accepted in the provinces; but it is not always easy to hit off this point with precision, and excise revenue is likely to be reduced, not merely by prohibition or propaganda, but by smuggling and evasion. None of the provinces are sanguine in respect of the yield of the liquor excises, and many are prepared for a reduction.

Stamps.—Revenue from stamps shows a small annual increase with the growth of business. Frequent transfers of land give a very solid foundation to the revenue from general stamps, while the revenue from court fees also slowly but steadily rises. Most of the provinces during the difficult years of 1921-5 raised the court fees and stamp duties. There is no sign that this increase of rates has diminished receipts; but in some provinces the increase in rates has been repealed. This is almost the only present provincial source of revenue of which it can be said with some assurance that there is a margin of probable increase.

Irrigation.—The irrigation position in India is as unsatisfactory from the Treasury point of view as that of the Land Revenue. Working costs—largely consisting of wages and materials—have risen to new post-war levels, but the charges for water in most cases remain on the pre-war basis. The result is that on old irrigation schemes the net profit has very greatly diminished or disappeared. In regard to new schemes and particularly where fresh land is brought under cultivation, the charges yield a

high revenue, and this factor is largely responsible for the improved financial situation of the Punjab. But where the new schemes have brought water to the existing land, there are many cases in which no adequate water rate is charged, and the province is waiting for an appropriate return until the next land resettlement takes place which may be many years hence. Indeed, with certain exceptions it may be said that in this matter, of irrigation, as well as in connection with other development work, adequate steps have not been taken in India to secure to the Treasury the increase in land values due to Government action.

Other Items.—There remains the Scheduled Taxes list, that is to say a list of taxes which the provinces may impose if they think fit. The taxes in this list are either not very prolific or for various reasons have not hitherto been imposed. Betting and amusement taxes have been imposed in four provinces, viz., Bengal, Bombay, Madras and Burma. The yield, however, is very small except in large capital cities, and under present circumstances no large revenues can be expected from them. Except for road tolls and some other indirect taxes on commerce, which will be referred to later and are at present available only for local authorities, there are no sources of revenue of first class importance in this list.

The other miscellaneous items of provincial revenue call for no general comment.

General Conclusion as to Provincial Revenues.

256. In short, so long as the State is unable to acquire a share of the increment in the value of land in the form of land revenue, irrigation dues or in some other way, and so long as the present allocation of sources of revenue persists, there is no direction in which the provinces can look for a substantial or even a continuous increase in revenues, except under the heading of "Stamps."

Situation of the Various Provinces.

257. These considerations are of general application. For a number of reasons, however, the budget situation in recent years has differed considerably in various provinces as may be seen from the table on the next page.

In all cases except the United Provinces, there was an appreciable increase in the first part of the decade in the gross revenue collected, but in the last five years there was practically no increase except in Madras. The net figures of revenue available for the provinces after deducting contributions to the Centre show a much greater rise, this benefit being of course enjoyed by the provinces in proportion to their respective contributions. A feature of the table is the low revenue of Bengal and Bihar and Orissa in proportion to their enormous populations. The United Provinces are a little though not very much better off.

Provincial Revenues 1921–29 (in lakhs of rupees).

(a) Gross revenues (before deducting provincial contributions).

Year.	Madras.	Bombay.	Bengal.	United Provinces.	Punjab.	Burma (including Shan States).	Bihar and Orissa.	Central Provinces.	Assam.	Coorg.	Total.
1921–22 ...	1,523	1,367	895	1,242	885	982	443	494	196	—	8,027
1922–23 ...	1,606	1,473	985	1,246	1,003	950	494	537	199	—	8,493
1923–24 ...	1,647	1,509	1,013	1,271	1,091	980	528	539	226	—	8,804
1924–25 ...	1,627	1,555	1,034	1,240	1,153	1,095	537	547	245	15	9,048
1925–26 ...	1,693	1,558	1,071	1,270	1,266	1,113	579	548	259	14	9,371
1926–27 ...	1,683	1,486	1,050	1,289	1,171	1,104	574	529	258	13	9,157
1927–28 ...	1,700	1,534	1,081	1,286	1,206	1,126	572	540	269	14	9,328
1928–29 ...	1,753	1,522	1,099	1,145	1,116	1,112	578	536	274	14	9,149

(b) Net revenues (after deducting provincial contributions).

Year.	Madras.	Bombay.	Bengal.	United Provinces.	Punjab.	Burma (including Shan States).	Bihar and Orissa.	Central Provinces.	Assam.	Coorg.	Total.
1921–2 ...	1,146	1,311	832	1,002	710	918	443	463	181		7,006
1928–9 ...	1,753	1,522	1,099	1,145	1,116	1,112	587	536	274		9,144
Increase per cent.	*53*	*16*	*32*	*14*	*57*	*21*	*30*	*16*	*50*		*30*
Population in millions.	42·3	19·3	46·7	45·4	20·7	13·2	34·0	13·9	7·6		243·1

Provincial Revenues and Central Revenues collected in the Provinces—1928–29 (in lakhs of rupees).

	Madras.	Bombay.	Bengal.	United Provinces.	Punjab.	Burma.	Shan States.	Bihar and Orissa.	Central Provinces.	Assam.	Total.
Provincial.											
Land Revenue ...	525	485	327	604	278	540	5	174	219	117	3,274
Excise	559	392	225	131	121	133	1	189	123	66	1,940
Stamps	251	168	355	173	121	71	—	110	70	22	1,341
Income Tax (D.R. 15).†	5	—	—	—	4	12	—	5	2	7	35
Irrigation (net)*	183	66	—1	85	374	33	—	21	—	—	761
Forests	62	73	31	62	35	161	20	11	54	38	547
Other heads ...	168	338	160	90	182	105	32	68	68	24	1,235
Total ...	1,753	1,522	1,097	1,145	1,115	1,055	58	578	536	274	9,133
Central (collected in provinces).											
Customs... ...	469	1,921	1,850	—	9	657	—	—	—	23	4,929
Taxes on income	131	317	615	90	61	185	—	91	33	15	1,538
Salt	148	158	176	—	—	35	—	—	—	—	517
Opium	—	—	—	327	—	—	—	—	—	—	327
Other heads ...	19	88	36	5	31	10	—	3	3	1	196
Total ...	767	2,484	2,677	422	101	887	—	94	36	39	7,507

* Includes land revenue due to irrigation.

† Under Devolution Rule 15 when the income assessed to income tax in any year subsequent to 1920–21 exceeds in any province the assessed income of 1920–21, an amount calculated at the rate of three pies in the rupee on such excess is allocated to the province.

Yield of Principal Sources of Revenue.

258. It is not necessary to analyse these figures in very great detail; but it will be convenient to supplement them by a table (p. 230) showing for a single year the revenue received in each province from various sources, as well as the sums *collected* for the Central Government under the heads of Customs, Income Tax, Salt and Opium.

The table shows that there is a considerable divergence between the provinces in the extent of their dependence on various classes of revenue. Thus Bengal lives largely on the revenue from "Stamps," most of which arises from litigation. It has contrived to add to its exiguous income from other sources including amusement taxes, registration fees, etc. Excise is the largest item in Madras and Bihar and Orissa. In the latter province, as well as in Bengal, Land Revenue is low, owing to the permanent land settlement. In every other province the largest item is Land Revenue, which amounts in the United Provinces to over 50 per cent. of the total revenue, while in the Punjab, Land Revenue and Irrigation account for nearly 60 per cent.

Pre-War and Post-War Budgets.

259. The varying importance of these items of revenue in different provinces, their unequal expansion in recent years and finally the abolition of the contributions which at first modified the effect of the new allocation of revenues between the provinces and the Centre account for the fact noted in the previous chapter that, in comparison with the pre-war situation, some of the provinces are very much better off than others. If we take the Provincial Settlements of 1912 (which were based on the presumed needs of the provinces) as a starting point, and assume as a standard for the moment the expenditure on provincial services in 1912-13, we find that the budget of 1929-30 of the Punjab shows an increase of 154 per cent; Madras an increase of over 118 per cent; Burma 110 per cent; United Provinces, Bombay, Bengal and Bihar and Orissa, increases varying from 88 to 105 per cent. Assam shows an increase of 83 per cent, and Central Provinces only 68 per cent.*

Equity and the Comparison of Needs.

260. But before jumping to the conclusion that injustice has been done, it is to be observed that we cannot take for granted without further examination that the pre-war figures were "fair" as between the provinces and that it was unreasonable to make any departure from the situation then existing. Such a

* For purposes of comparison Central expenditure in 1912–13 on provincial services has been included and various other adjustments have been made. The exceptional increase in the Punjab is largely due to extraordinary receipts from sales of land in connection with irrigation.

suggestion is naturally challenged by those provinces which have benefited most. It is claimed on behalf of Madras, for example, that it was consistently penalised before the War. But whether this was so or not, at least it can be stated categorically that the present plan has involved a substantial change in relative positions. Even if it could be shown that the pre-war position was unfair to the Punjab, Madras and other provinces which have subsequently benefited, it would be a sheer accident if the new balance had created an equitable situation, for the new distribution has been arrived at without any attempt to establish an objective standard of fairness.

Indeed, it is very difficult to set up, even in theory, any such standard. It costs more to run a province with a scattered population than one which is densely populated; more teachers and policemen must be maintained per head of population; the cost of roads and of medical and sanitary services must be higher per head. Again, in provinces where salary and wage rates are high, the cost of a given service will be comparatively high. Physical facts, also, may determine the need for health or sanitary services, while it is obvious that a province with a substantial urban population or a capital city may require a larger police force per head than a more rural province. We should not, therefore, in any case expect to find anything like equality in the expenditure of various provinces, either in proportion to the area served or to population. The disparity, however, between the total expenditure per head in various provinces, which ranges from 1·8 rupees per head in Bihar and Orissa and 2·5 per head in Bengal to 8·3 rupees per head in Bombay and 8·6 per head in Burma, is so great that it is impossible to believe that it can be entirely accounted for by the considerations that have been mentioned. The figures, which are fully analysed in the table on page 233, point to the conclusion, which is in fact borne out by general observation, that the standard of service rendered by provincial Governments—both in quality and in amount—is appreciably lower in the poorer parts of India than in those that are more well-to-do. In concrete terms the amenities of life, the chance of advancement as a result of educational facilities, the liability to disease in so far as this is dependent upon sanitary and medical facilities, are by no means the same throughout India.

Whatever the cause of these differences, their existence cannot be left out of account in considering a new financial adjustment.

Expenditure since the Reforms.

261 It also cannot be ignored that for the reasons given—namely the different yield of particular kinds of revenue in different parts of India, their unequal growth in recent years and the abolition of the provincial contributions — the inequalities have been accentuated under the

Expenditure per Head of Population according to 1929–1930 Budget estimates in rupees.

	Madras.	Bombay.	Bengal.	United Provinces.	Punjab.	Burma.	Bihar and Orissa.	Central Provinces.	Assam.
Education	·608	1·057	·285	·421	·806	·962	·262	·410	·421
Medical and Public Health	·333	·472	·210	·145	·391	·492	·153	·158	·289
Land Revenue and General Administration.	·657	1·528	·398	·522	·758	1·273	·300	·741	·658
Law and Order	·790	1·446	·784	·628	1·106	2·015	·432	·763	·618
Civil Works	·504	·674	·180	·108	·802	1·439	·156	·626	·092
Miscellaneous	1·296	3·114	·697	·905	1·686	2·439	·497	1·094	1· 42
Total	4·188	8·291	2·554	2·729	5·549	8·620	1·800	3·792	3·920
Density of Population per square mile...	*297·3*	*156·1*	*608·1*	*427·1*	*207·4*	*56·5*	*409·1*	*139·1*	*143·4*

Reforms. Immediately after the War, practically every province had to face a big increase in salary rates. In Bengal this more than counterbalanced the increased spending power which the Meston Committee estimated that that province would receive under the new financial settlement, and in every other case, even if the rise of salaries and wages did not create a deficit in the budget, the expectation on which the financial settlement was based was falsified. In the next year or two there was a strong effort made in every province to reduce expenditure, often with the assistance of a retrenchment committee. During this period very few provinces were able to increase expenditure on development and national services. In 1925-26, however, the remission of contributions placed certain provinces in a more favourable position. These provinces have devoted substantial sums, and other provinces have devoted more modest sums, to education, public health, irrigation and other objects of social and economic amelioration. The figures for transferred services in the three principal agricultural provinces and the two chief industrial provinces are as follows :—

Expenditure in lakhs of rupees.

	1922–23.	1929–30 (Budget).	Increase.	Percentage increase.
Madras...	411·3	763·8	352·5	86
Punjab	299·0	542·7	243·7	82
United Provinces ...	298·0	388·2	90·2	30
Bombay	453·5	567·6	114·1	25
Bengal...	353·9	404·0	50·1	14

The disparity here revealed is equally noticeable when the figures of expenditure on the principal nation-building services are examined separately :—

Percentage increase between 1922-23 *and* 1929-30.

	Education.	Medical relief and Public Health.
Madras	82	115
Punjab	78	94
United Provinces	47	67
Bombay	23	43
Bengal	21	24

Of the smaller provinces, Bihar and Orissa, and to a less extent, Assam, show the same lack of development as Bengal. The disparity is even more pronounced in comparing the budgets since 1925-26.

Resources of Provinces.

262. These and other figures relating to provincial budgets suggest the following general conclusions :—

(*a*) As a result of the division of resources in 1920 the provinces received substantially increased spending power as compared with the pre-war situation, and though higher salaries and prices absorbed a large amount of the increase, they have been able to finance the considerable expansion of social services that has taken place all over India in the last decade.

(*b*) The benefit was, however, unequally felt owing to the fact that for historical and other reasons certain specific items of revenue are productive to very varying extents in the different provinces.

(*c*) The growth of revenue continued fairly generally during the first half of the decade partly as a result of new minor taxes and higher rates of stamp duty and also through the assessment of newly irrigated land.

(*d*) The full effect of the allocation was not felt until the final abolition of the contributions. This gave the contributing provinces further increases of revenue and enabled them to continue the expansion of their services during the last half of the decade; but it increased the disparity that had already been created. Other provinces have had the greatest difficulty in making even small increases in expenditure, and in Bengal the expansion of educational and other services has practically ceased.

(*e*) From now onwards any increase of revenue from existing sources—except receipts from large irrigation schemes mainly in the Punjab and Sind—is likely to be small. The stagnation of other revenues will affect all provinces alike.

Future Requirements.

263. It remains to consider future requirements which are everywhere almost unlimited. Even in Madras, which has benefited most from the remission of its contribution, the rising income is already mortgaged. Expenditure on education and public health have both risen substantially; but it has not yet been possible to embark upon a universal compulsory education scheme. It is extremely difficult to estimate what universal compulsory education would cost. In Madras two estimates have been made, one involving nearly nine crores a year additional expenditure, and the other five crores a year additional expenditure. It would probably be a long time before either of these figures could be reached. But it is significant that even the lower

of these figures is a long way ahead of the possible expansion of revenue in Madras. In other provinces more modest estimates have been framed as to what it would cost to start with compulsory education, but in every case even a small start in this direction is quite out of the question from existing resources.

In this matter of future requirements we are, in fact, in the realm of conjecture, but it can hardly be open to question that expenditure on functions falling within the provincial sphere could well be increased, without extravagance and to the great economic advantage of India, by from 40-50 crores within the next ten years as compared with an increased expenditure of 15 crores in the past decade. This means that the revenues of the provinces need to be increased by something like 50 per cent.

We thus come to the heart of the problem, which is to find further revenues of this order of magnitude and to devise a financial plan by which they can be made available to those governmental authorities which need them.

Separation of Burma.

264. Before leaving this survey of Indian finances, it should be noted that many of the figures given in the preceding paragraphs will be somewhat altered if effect is given to the proposal that Burma should be separated from British India. The extent to which the figures will be modified depends, of course, upon the terms on which this separation is arranged. This matter is discussed in an appendix to my report. The problem involves many debatable points, such as the proportion of the unproductive debt that ought to be assigned to Burma, the charge which she should assume in regard to defence, etc. The net financial effect, moreover, would depend upon the extent to which Indo-Burmese trade was made subject to existing customs duties. It has, however, been necessary to make some assumptions on these points in order to be able to form a picture of the financial situation of Burma and British India respectively after separation. I have, therefore, made a calculation on the assumption that Indo-Burmese trade will be subject to existing taxation except that the present protective taxes will not be levied by Burma; that the excise now levied in Burma on kerosene and motor spirit sold by Burma in British India will no longer be collected by her, but will be included in the revenue of British India, and that charges in respect of debt and defence will be allotted to Burma to the extent of 2 crores and 3 crores respectively. On this assumption, British India would gain about a crore after allowing for transferred expenditure and increased receipts.

On this basis the balance sheet, in paragraph 247, of the central and provincial finances of India excluding Burma would have been as follows in 1929-30 :—

Central and Provincial Budgets, excluding Burma (1929-30).

(In crores of rupees).

Central Revenue.		*Central Expenditure.*	
Customs	47·91	Defence (net)	52·10
Income tax	14·75	Debt (net)	10·19
Salt	6·00	Civil Administration	10·20
Other taxes	1·09	Loss on Post Office, etc.	·39
		Cost of collection	3·12
Total taxes	69·75	Civil Works	2·41
Railways	6·00	Pensions	2·48
Opium	2·35	Other expenditure	·47
Currency and Mint	2·35	Surplus resulting from separation as in Appendix to my report.	1·00
Tributes	·74		
Other Receipts	1·17		
Total	82·36	Total	82·36

Provincial Revenue.		*Provincial Expenditure.*	
Land revenue	29·94	Land revenue and General administration.	14·08
Excise	18·13	Police	10·67
Stamps	13·64	Jails and Justice	7·26
Registration	1·40	Debt	3·43
Scheduled taxes	·39	Pensions	3·60
Total taxes	63·50	Education	11·30
Forests (net)	1·11	Medical Relief and public health.	5·73
Irrigation (net)	2·80	Agriculture and Industries	3·24
Other sources	10·72	Civil Works	9·38
		Other	8·32
Total	78·13	Total	77·01

These are the figures which have been used in the discussion of a new financial scheme in Chapter 6 below.

CHAPTER 4.—NEW SOURCES OF TAXATION.

General Aspects of New Taxation.

265. The preceding discussion shows the need of seeking for new sources of taxation. In the first chapter of my report, I have drawn attention to the comparatively low ratio of taxation to the total national income of India, and have also indicated some of the causes that in my opinion have impeded the fiscal development of the country. It is there suggested that there are *prima facie* grounds for thinking that, if there were no political obstacles, it would be economically possible to increase the tax revenue of India provided always that the incidence of taxation is carefully adjusted to the capacity of taxpayers to pay, particular care being taken not to increase the cost of the necessities of life. In this connection, certain general considerations must be borne in mind. On theoretical grounds direct taxes have great economic advantages over indirect. Their incidence can be more definitely determined, and they are economical to the taxpayer in the sense that he is not called upon to pay more than the Government receives, and they are usually inexpensive to collect. But it is impossible to press this theory far in an agricultural country such as India, where a very large population is living on a low standard, and where much of the wealth that is accumulated is not in a form in which it can be readily assessed and taxed. In such circumstances, the greater part of the revenue must be raised by indirect taxes, and fiscal theory must be sacrificed to the necessities of the case. At the same time, these conditions make it even more important than elsewhere that taxation should be adjusted to ability to pay, which means that as large a part of the additional burden as possible should be placed on the richer classes by means of direct taxation. I might add that the ordinary economic arguments for this course are strengthened in the case of India by various considerations such as the fact, already emphasised, that an unusually small proportion of the revenue raised is used in services which are of direct benefit in raising the status of the masses of the people.

Principal Features of the Indian Fiscal System.

266. The principal features of the financial system of British India that have contributed to the low level of taxation, as compared with the level in other countries seem to be :—

(*a*) The small yield from income tax.

(*b*) The total exemption of agricultural incomes from income tax.

(*c*) The absence of death duties.

(*d*) The absence of any internal taxation on articles such as tobacco, matches, etc., although taxes on the former are almost universal in Indian States.

(*e*) The inadequate development of local taxation, particularly in rural areas.

Yield of the Income Tax.

267. The rate of income tax in India is light compared with that in force in Western countries, and it has been a difficult task to organise the Revenue Department and to prevent evasion. In the circumstances, it has perhaps been imprudent for administrative reasons to limit the taxes to fairly substantial incomes by fixing the exemption limits both for income tax and super tax at a high level (rupees 2,000 and rupees 50,000 respectively). It should now be possible to increase the yield substantially by lowering the limits, which are undoubtedly high, particularly for Indian conditions. Indeed, more than one provincial Government has suggested that it should be empowered to tax incomes below Rs.2,000. There is also considerable scope for the steepening of the progression of the rate of income tax for incomes between Rs.5,000 and Rs.100,000.

268. In recent years the revenue has also suffered owing to the provisions relating to the taxation of income from foreign investments. Such income is entirely exempt from taxation unless it is brought back to India within three years. There has, therefore, been an inducement to Indians to invest abroad and to hold the income overseas until it can be brought home free of tax. This provision is not only detrimental to the revenue, but is an inducement to send Indian capital overseas. It is desirable that it should be amended.

Taxation of Agricultural Incomes.

269. The most important aspect of the income tax problem is, however, the total exemption of agricultural incomes. The circumstances under which agricultural incomes were exempted from income tax in India are described in detail in the report of the Indian Taxation Enquiry Committee.* It is clear from this account that the continued exemption of these incomes cannot be justified on historical grounds. Indeed, agricultural incomes were not exempt from the income tax that was in force in India between 1860 and 1873, although the land revenue in that period was a much higher proportion of the net assets or produce than it is now. Nor is the exemption supported by fiscal theory. It is sometimes claimed that land revenue in India is the counterpart of income tax in other countries, and that to impose income tax as well upon the incomes of the zemindars would be a form of double taxation. But this argument is not convincing for many reasons. Clearly, in the provinces where there is a permanent settlement, land revenue has the same economic character as a mortgage or tithe rent. In other parts of India, there is the same tendency for land revenue to remain fixed, and it notoriously fails to respond to variations in the produce of the land. The only important exceptions to this general statement appear to be the fresh assessments in

* Report of the Indian Taxation Enquiry Committee, paragraphs 259–263.

provinces where new land is being brought into cultivation by irrigation. But even in these cases, land revenue is levied on a flat rate basis and does not fall with graduated incidence on large incomes from land.

The produce of the land is by far the largest item in India's annual production. Increased productivity, together with the rise of prices since pre-war days, has enormously increased the money value of India's agricultural product, and even after allowing for the larger population which it supports, there must have been a very large increase in the net product, which has been shared between the cultivator and the landowner. The tax gatherer has obtained next to nothing of this increase. An appropriate share of it can only be obtained either by frequent and substantial adjustments of land revenue assessments, or by imposing income tax on agricultural incomes. The former plan would not only have to overcome serious political difficulties, but has the disadvantage of hitting the small holding equally with the large. The latter plan is fiscally sound. There are administrative difficulties as regards the assessment of agricultural profits, but these are not peculiar to India. With the elaborate machinery for the maintenance of land records and for the administration and the collection of the land revenue at his disposal, the Indian Collector is probably in a better position to estimate agricultural profits than the assessor in other countries. Moreover, the Government of India, with a far less efficient machinery for the assessment of income tax, was prepared to face these difficulties in 1918, when it made the proposal that income from agriculture should be taken into account in determining the rate at which the income tax was to be levied on non-agricultural income.

So long as the existing exemption continues it is not possible either to impose a graduated burden upon landholders or to levy upon them a share of the increasing taxation that is necessary in India. It would, however, be too sudden a change if the full rate of income tax and super tax were imposed on Indian landholders at once. It may, therefore, be desirable that the exemption should be removed by stages at specified dates.

270. One of the principal advantages of levying income tax on agricultural incomes is that it would subject the non-agricultural earnings of people who own land to a higher rate of income tax. For instance, if the income from all sources of rural moneylenders, who are often landholders, were taxed, not only would more income become liable to tax, but the tax would be assessed at a higher rate. This would increase the yield of the tax considerably. The machinery of collection and administration would, therefore, have to be central, and the rate would have to be fixed by the Central Government, but the yield could appropriately be assigned to the province where it was collected

Incidentally, the change would check the present tendency for savings accumulated in industry to be invested in land in order to escape taxation.

Death Duties.

271. It has been suggested that in India death duties might take the place of income tax as a means of imposing a graduated burden on agricultural incomes. A probate duty already exists in certain areas, but it is limited to particular communities and the rate is low. The possibility of imposing death duties throughout India has been exhaustively considered by the Indian Taxation Committee, and the question has also been discussed by the Government of India with the provincial Governments. On the political and legal difficulties in the way of the imposition of this tax, which arise mainly from the complexities of the Hindu law of inheritance, I am not competent to express any opinion. I am assured, however, that it would be unsafe to rely on these duties as an important source of revenue during the next decade, especially if, as is suggested above, the exemption of agricultural incomes from income tax is removed. In most federations death duties are wholly assigned to the constituent states or provinces, but general legislation for the regulation of the tax has been found necessary in some countries in order to avoid double taxation. The tax, moreover, is closely connected in its nature and administration with the income tax, which is collected and administered by a central authority in India. The Taxation Committee has also recommended that the legislation dealing with the tax should be undertaken by the Central Legislature. The tax if levied in India would, therefore, probably have to be administered by a central authority and distributed among the provinces.

Taxation of Tobacco.

272. Direct taxation, however, cannot, at any rate for some decades, play as large a part in the finances of India as in a Western industrialised country. For raising large sums of money, which are urgently required for education, sanitation, etc., India, as indicated in an earlier paragraph, will have to depend, in her present state of economic development, primarily on indirect taxes. The possibility of the taxation of tobacco, much of which is produced locally and consumed in primitive forms, has been considered by the Government on numerous occasions in the past, but administrative difficulties have hitherto prevented the imposition of the tax. In recent years, however, the consumption of tobacco in the form of cigarettes and, to a less extent pipe tobacco and cigars, has grown rapidly. With heavy increases in the import tariff since the War, there has been a marked development in the production of cigarettes in India. Since this production is concentrated in a few large factories, the administrative difficulties have disappeared so far as manufactured tobacco is concerned. An excise on tobacco

under the Scheduled Taxes Rules is a provincial tax, and the Government of India have recently been in correspondence with the provincial Governments regarding details of the method by which such taxes might be levied in the provinces. But, if the tax is really to be provincialised with varying rates between the provinces, it means that the cigarette trade of India must take place in bond, and there will in effect be a new series of internal customs barriers. Even if the duty were levied at the factory, varying rates of duty would be charged on different portions of its output, and under the most favourable conditions there would have to be a complicated system of inter-provincial adjustments. An excise duty on factory-produced tobacco is needed, and it is needed by the provinces; but it is desirable that the duty should be levied at the source, that the rate should be uniform and fixed by agreement and that the proceeds should be dealt with as indicated later in my report. If the cigarette habit continues to spread as it is doing at present, the yield of this excise might be expected to amount to 5 crores at the end of ten years.

Excise on Matches.

273. The development of the match industry in India was the result of the almost prohibitive tariff amounting to 100 to 200 per cent. *ad valorem*, which was originally imposed for revenue purposes in 1922. Behind the protection of the tariff, a big local industry has grown up, and according to the Tariff Board, which recently enquired into the condition of the industry, India can now supply all the matches that she needs. The yield of the import duty has fallen from Rs. 172 lakhs in 1922 to Rs. 10 lakhs in 1930-31 (Budget estimate). The tariff Board considered the question of an excise duty on matches and saw no reason why a tax should not be imposed on match factories in India. It considered that " the incidence of a duty of this nature on an article in very common use is very small per head of the population and is little felt by the individual; " but that " care should be taken to fix it at such a level as to absorb as far as possible (into the Exchequer) the whole of the increase in price."* An excise duty at the rate of the present import duty would yield about 3 crores.

The two excises referred to above might, at the end of ten years, be expected to yield 7 or 8 crores of rupees and a steadily rising revenue thereafter.

Terminal Tax.

274. Another productive tax from the point of view of revenue would be the provincial " terminal tax " on exports and imports suggested in the Memorandum of the Assam Government. The expression in Indian fiscal terminology means a tax generally

* Report of the Indian Tariff Board regarding the grant of protection to the match industry (1928), page 98.

levied at a railway station and collected by the railway administration on all goods imported or exported from the station. For reasons of administrative convenience it was substituted for the octroi in a large number of municipalities in the United Provinces, on the advice of a Committee appointed in 1908, and it has since been adopted by some municipalities in other provinces. It has so far been regarded as a tax appropriate for purely local purposes, and its levy has been restricted by the Scheduled Taxes Rules to areas in which an octroi was levied on or before the 6th July, 1917. The Government of India have naturally been reluctant to permit the extension of a tax, which, though it offers undoubted advantages, could be abused and might become a menace to trade if not properly controlled.

The present proposal is to levy a terminal tax at a low rate for provincial purposes at *every* railway station. The scheme has been envisaged as a means of levying a charge upon trade for road and other development—the levy being collected at the station purely as a matter of convenience. There are obvious objections to such taxes, both of a theoretical and practical nature. It is very desirable that there should be the greatest possible freedom of movement of goods in India in order to encourage specialised production, which is one of the most important ways in which the standard of living can be raised. It is, moreover, difficult to impose taxes of this kind without putting a heavy burden upon short distance traffic, and, indeed, it would be necessary to devise the scheme carefully in such a way as not to involve discrimination. But despite these objections, there is considerable justification in an extensive but poor country such as India for following the precedent, set in many European countries and elsewhere, of levying what in effect would be an internal consumption tax. The tax is an easily collected one, and, even if it were levied at a very low rate, would be very productive of revenue if generally applied. Some of the more serious disadvantages of the system could be avoided, if the imposition of the tax by the provinces were subject to the approval of the Government of India, which would examine the matter from the point of view of the general commerce and industry of India and would be authorised to fix maximum rates and the conditions under which the tax should be imposed. Whether it should be levied on both incoming and outgoing traffic or—to avoid any suggestion that a particular province was imposing burdens on persons outside its own borders—on incoming traffic only, and what exceptions, if any, should be allowed, are matters for detailed consideration. It might also be necessary, in order to avoid any transfer to other means of transport, that the tax should be levied on river traffic. The carriage of goods by road is not yet a serious competitor with the railway; if and when it becomes so, the question of extending or abandoning this tax might have to be reconsidered. Indeed, with all its economic drawbacks, it should not perhaps,

in any case, be regarded as a permanent feature of India's financial system, but rather as one suited to a country in a comparatively early stage of economic development. Subject to these considerations, it could undoubtedly be made a very fruitful source of revenue, and if the proceeds were utilised for beneficent purposes, the economic benefits should considerably outweigh its disadvantages.

It is difficult to estimate the probable yield of such taxes; but some indication of the possibilities is afforded by the fact that octrois levied by municipalities with a total population of certainly less than 10 millions yield about 2 crores. These duties would have to be kept at an exceedingly low figure, but, if levied all over India, could certainly be made to yield 6 crores and might easily yield more than 10 crores.

Local Cess on Land.

275. In India the principal tax levied in rural areas for local purposes is a surcharge or a cess on the land revenue or rent. The rate in many of the provinces is subject to a maximum of one anna in the rupee, and has remained unchanged for over 50 years. There was probably some justification for this imposition of a limit in the last century, since the land revenue was then a very high proportion of the net produce, and other cesses were levied on land for provincial and Imperial purposes. All the other cesses were abolished in the beginning of this century, and the land revenue policy since the War has tended to restrict increases of assessments at the periodical resettlements. There is no longer any excuse for the retention of this limit, especially in the permanently settled provinces.

CHAPTER 5.—PRINCIPLES THAT SHOULD GOVERN THE DISTRIBUTION OF REVENUES.

Necessity for Central Administration of New Taxes.

276. The preceding survey of the situation suggests that, in view of the functions at present assigned to the Central Government, its expenditure should be comparatively stationary; indeed, it might actually fall, if any substantial relief could be obtained in respect of military expenditure. As the Centre has the expanding sources of revenue, there is in course of time likely to be a surplus on the budget, and this surplus, after meeting certain charges, will gradually become available for the provinces.

But this surplus will only go a little way towards meeting provincial requirements and the difference must be made up by new taxation. An examination of specific instances, however, shows that the most fruitful sources of further revenue are those which can best be regulated and collected by a central agency, which will levy them on a uniform basis. A limited number only can be devised in which variation between the provinces can be permitted.

It therefore follows that, if India's sources of revenue are to be substantially increased to meet "nation building" services, substantial sums must be collected by a central agency and distributed to the provinces on some basis to be agreed upon.

Objections to Assignment of All Revenues to Provinces.

277. Before, however, discussing how this conclusion is to be applied, it has been suggested that its difficulties may be evaded by a radically different solution. This proposal is to return to the guiding idea of the Montagu-Chelmsford Report, and in order to ensure the complete fiscal autonomy of the provinces, recognise the right of the provinces to all the revenues of whatever kind which arise in them and to leave them to provide for the financial needs of the Central Government by means of appropriate contributions. This plan is supported by certain members of the Indian Central Committee.

278. Some of the reasons why this apparently simple solution was not adopted in the Settlement of 1920 have, however, already been pointed out.* Two important practical objections are, firstly, that if there are to be no internal barriers in India customs duties and similar taxes must be collected at a uniform rate, and in any case can most conveniently be collected by a central organisation; and, secondly, that the plan would involve conferring on the Central Government the right to intervene and to compel a defaulting province to produce its quota.

* See paragraph 244.

But there is also an objection of principle. The scheme assumes that each province has a sort of natural right to the revenues which happen to be collected in it. This view is quite indefensible in the case of India. To take the most obvious example. The customs revenue collected at India's main ports is clearly a tax that is paid in some measure by people all over India and not merely by people in the province where the ports happen to be situated. If any attempt were made to meet this objection by allocating the customs revenue according to the place of consumption of imported goods, it would involve a most elaborate bonding system throughout India in order to be able to trace imported goods to their ultimate destination.

279. Similarly in the case of income tax; profits are collected at the headquarters of a business; but it is impossible to tell whether those profits arise within the province where these headquarters are situated or not. In certain cases, where great businesses operate in more than one province, an allocation of income tax receipts is made even to-day. But this allocation, which is made for the purpose of estimating the amount due to different provinces under Devolution Rule 15, is arbitrary and is confined to special cases. There is no attempt made to allocate commercial or industrial income generally according to its province of origin, and for large trading concerns which cover the whole of India it is almost impossible.

But even if this technical difficulty could be overcome, it could not be admitted that a province would be entitled to all the income subject to income tax which apparently was earned within its borders; for the population of towns, and in particular that of the capital cities, builds up its economic life on that of the country as a whole, while the prosperity of the great ports has its roots in the villages of the interior as well as in those of seaboard provinces themselves. The shipping concerns and commercial houses of Karachi or Bombay, for example, may enjoy increased profits next year as a result of favourable agricultural conditions in the Punjab. These profits will mean higher income tax assessments in respect of incomes earned in the Presidency of Bombay, and increase the consumption in those cities of imported goods and, therefore, the amount of customs revenue collected. But it would be a mistake to attribute this expansion of revenue to the special industry or good fortune of the Presidency alone. On the contrary, it would be due primarily to conditions elsewhere.

The absence of internal economic barriers, in fact, makes India an economic unity, and, under these conditions, the taxation which arises from the activities of great centres, such as Bombay and Calcutta, is properly to be regarded as due to the whole economic life of India and not merely to that of a particular territory round those ports. No one would claim in the case of Great Britain that the income tax collected in London, or the customs revenue paid at the port, ought to be

appropriated to the local administration of London or even to that of the Home Counties, and the same considerations apply to some extent to India.

Existing Provinces unsuitable fiscal units.

280. This argument would be somewhat modified if a regrouping of the provinces of India were possible, under which the country would be divided up into 4 or 5 provinces, each having its own port, its industrial area, and its agricultural hinterland. Such provinces would be reasonable units from the fiscal point of view, and even though they might have no actual customs barriers between them, it might be argued that each of them formed a balanced whole from the revenue-producing standpoint and though taxed goods might pass from one to the other, the balance of gain and loss would be about the same for all. The provincial map of India is, however, very different from this. The figures in the preceding chapter* show at a glance how great are the inequalities that would arise, if existing provinces were left in possession of the revenues collected in them. The province of Bihar and Orissa, for example, has no customs revenues at all and very little income tax is collected within its borders. It is impossible to maintain that the present Bengal (population 47 millions), which has only been in existence for a few years, has any prescriptive right to the 38 crores of rupees which are collected within its borders, whereas Bihar and Orissa (population 34 millions) is only entitled to the 6¾ crores which is the total of the revenue collections within its area.

Distribution according to needs.

281. While, therefore, the claim of the provinces to all the revenues collected in them may seem at first sight to rest upon a sure foundation of equity, in fact it does not do so. On the contrary, there is force in the counter-claim that some of the revenues of India should be redistributed according to the needs of the various provinces. This claim rests in part on the arguments already put forward that the taxation of profits and of trade cannot fairly be earmarked to the benefit of the territory in which it happens to be levied, but that it arises from the economic activities of the country as a whole. It also rests on the argument that it is not wise statesmanship to leave certain large areas in a much more backward state of development than others. This does not mean that it would be either wise or practicable to enforce a uniform standard all over India. Much, indeed, is to be gained by encouraging competition between the provinces, and by permitting those parts of India which are rapidly advancing to make the pace for the rest. But it is undesirable that the backward provinces should be left without resources to follow this lead. The existence of provinces that

* See p. 230.

are uneconomic in the sense that they have very scanty sources from which to raise revenue does, in fact, create just this difficulty, and it can only be overcome by deliberate re-adjustment of some of the proceeds of taxation " according to needs."

Possibility of Centralising Services.

282. This problem could be readily solved if India were to retrace her steps and instead of moving in the direction of greater provincial autonomy were to develop a more highly centralised constitution, in which the Central Government would take direct responsibility for " nation building " services. The direction and control of such services from headquarters would naturally tend towards a common standard all over India, and, as the cost would largely be met from central revenues, would imply a redistribution of the proceeds of taxation.

Even without going to the full length of placing these services under the Central Government, something like the same result would be obtained by adopting a system of grants-in-aid. The system would naturally tend to create a common standard of services, and the grants would certainly be conditional on the efficiency of these services. There are important arguments in favour of this plan, which, like that of complete central control, is in harmony with the fact that the future sources of revenue from which these services must be fed are precisely those which, for administrative reasons, should be centrally collected.

The system does not necessarily involve placing arbitrary power in the hands of the Central Government, or the revival of the system of doles; for it is possible to devise automatic criteria as the basis of grants-in-aid, such as a definite percentage of the expenditure out of local funds; contributions on the basis of the numbers of teachers employed or of scholars at school, etc., etc.

The stumbling block in the way of such schemes is, however, the fact that they inevitably involve central inspection and, to a certain extent, control over local activity. No Government would continue to pay large and increasing sums for locally controlled services, unless it were satisfied that the services were being economically run; and the larger the contribution to such services, the more essential such control would become, for the local legislature would have a diminishing interest in efficiency and economy.

Arguments for and against greater centralisation.

283. The question, however, whether India will move back towards centralisation depends upon larger considerations than purely financial ones. The Report of the Hartog Committee suggests that in the interests of the progress of education some such movement is desirable in that sphere.*

* See Ed. Report Chapter XV.

On the other hand, as the progress of India towards self-government continues, it is to be presumed that the advance will take place more rapidly in the provinces than at the Centre, and, therefore, to transfer more financial control to the Centre would be a backward step in that it would not fulfil the condition that the largest possible measure of popular control is desirable if additional taxation is to be imposed.

Again, from a slightly different angle, the scheme is at variance with the widely held view that the political evolution of India requires the development of as large a class as possible of persons engaged in public work and administration and accustomed to public responsibilities. The most important school in which this class can be trained will be in the provinces, where the provincial legislatures will have to grapple with and direct the development of social services, which, it is hoped, will take place in the years immediately ahead.

Finally, the view that greater centralisation would be a step in the wrong direction may be strongly supported on quite other grounds than the stage of India's political evolution. India has made great headway under a highly centralised administration. But this administration has been concerned rather with the primary functions of government than with the economic and social life of the people. If and when the "nation building" services develop on a wide scale, it would require a vast bureaucracy to run these from a single centre. This has never been attempted in an area as great as this. In America, education and the police are State matters, and the same is true of Germany and Australia. These are, moreover, nations with common language, history and traditions, where uniformity is much easier than in India. It is difficult to conceive that such services, covering so vast an area and population, could be satisfactorily directed from one centre, except in their very early stages.

While, therefore, a substantial part of India's new revenue must be centrally collected, and should in part be distributed according to needs, I cannot assume that this re-distribution will be achieved either by transferring to the Central Government certain provincial services, or by a system of grants-in-aid involving central control.

Distribution according to Population.

284. If the solution is not to be found either in the centralisation of services or in a system of grants-in-aid, still less should we look for it in any system of doles to be fixed either by the Central Government or even by an impartial arbitrator. We have, therefore, to find some automatic test which will be indisputable and will satisfy the sense of fairness. It must also be simple if it is to command public confidence. There is one basis, and one only, which seems to me at once simple, intelligible and equitable, and that is a population basis. It is the basis on which the finances of the German Zollverein were

organised and has precedent in the British Empire in the Dominion of Canada and until recently in the Commonwealth of Australia. To distribute the whole or even the larger part of the revenues of India on this principle would certainly be unfair, and would severely penalise those provinces which have already made great headway; but, if a suitable proportion of centrally collected revenues were distributed on this basis, it would, it seems to me, introduce just that kind of corrective that is needed to adjust some of the present inequalities between the provinces without introducing complicated formulae or making separate arrangements with regard to every class of revenue.

Limitation of distribution according to needs.

285. There are, however, certain practical reasons of great force why re-distribution according to needs can only be carried a little way.

In the first place, a province which feels that part of its taxation is being used not for its own benefit but for that of its neighbour, is likely to resist the imposition of taxation. The incentive to husband its resources and make the yield of its taxation as great as possible will moreover be weakened. Conversely, a provincial Government, which receives revenue which it has not had the trouble of collecting or the unpopularity of imposing upon its own subjects, is likely to be less careful of expenditure and watchful against extravagance. It is, in fact, desirable to maintain as closely as possible the connection between control of expenditure and responsibility for raising revenue.

Again, a rapidly developing province naturally feels that it should benefit from its enterprise and initiative. There is also some force in the practical argument that growing trade and industry throw special responsibilities on Governments which involve them in increasing expenditure within their own borders. Even if this claim is not admitted in full, it is at least reasonable that a province should not be wholly deprived of the rising revenues which result from its economic progress.

We are, therefore, left with the two practicable principles of distribution according to origin and distribution on the basis of population. It remains to be seen whether a satisfactory allocation of centrally collected revenues based on a compromise between these two principles can be found.

Summary of Principles.

286. In the light of the foregoing discussions, it is now possible to sum up in the following propositions the conditions to which any new financial settlement must conform :—

(*a*) We must envisage an additional expenditure of at least 40 to 50 crores of rupees by 1940, in order to finance the expanding functions of Government, most of which will fall within the sphere of provincial Governments.

(*b*) There is no prospect of existing provincial revenues expanding to meet these requirements.

(*c*) After the loss of the opium revenue has been made good by the expansion of other items in the central budget, and certain claims have been met, and assuming peace and internal order, there should, in course of time, emerge a surplus over existing items of central expenditure. In the absence of a rapid extension of the functions of the Central Government, or a policy of drastic tax remission, this surplus should become available for provincial purposes. The extent of this surplus will be largely affected by the extent of India's future expenditure on defence and by her fiscal policy.

(*d*) This central surplus, however, will in any case be quite insufficient for the purposes envisaged, and provincial revenues must, therefore, be supplemented by new forms of taxation, most of which should be uniform all over India, and centrally collected.

(*e*) In order to maintain the essential connection between spending and raising revenue, the responsibility for imposing these new taxes must rest upon the representatives of the provincial legislatures.

(*f*) Continuous and detailed administrative control by the Central Government over the functions referred to in (*a*) will not be practicable, and it will, therefore, not be possible to finance a large proportion of provincial expenditure by means of grants-in-aid out of centrally collected revenues.

(*g*) Hence, a simple automatic basis must be found for the distribution to the provinces of centrally collected revenues. This basis must be permanent, or at all events, only changeable by general agreement of the provinces.

(*h*) The system of distribution must enable a province to benefit from its own economic development and from the enlargement of its own tax-producing capacity. In other words, it must receive some benefit from an increase of the revenue which arises within it. In particular, a case has been made out for enabling the industrial provinces to benefit to some extent from the increase in revenue arising from their industrial activities.

(*i*) The haphazard geographical distribution of the provinces makes it, however, inequitable to distribute all centrally collected taxes on the basis of the province from which they arise, and the distribution must to some extent accord with the needs of the various provinces. The only satisfactory automatic test of this kind is population.

(*j*) The complete scheme should, therefore, be based in part upon distribution according to origin and in part upon distribution according to population. The desired compromise between these two principles can be obtained by assigning the various sources of revenue to be distributed according to one or other of them.

CHAPTER 6.—APPLICATION OF PRECEDING PRINCIPLES.

New Scheme.

287. The preceding section has been concerned with general principles. In order to form an opinion about them, either from the point of view of individual provinces, or from that of India as a whole, it is necessary that they should be reduced to more specific terms. It hardly falls within the scope of my report to formulate a definite detailed scheme, but the preceding suggestions would not carry us very far, unless it could be shown that they afford a basis on which there is some hope of founding a financial structure which will meet India's needs.

Clearly, there is no short cut to a solution, for most of the provinces are extremely short of money, while the Central Government has had to increase taxation this year in order to balance its own position—which is an essential preliminary to being in a position to help the provinces. But in formulating a scheme of financial relations, it is more important to consider the future than the present. In this chapter, therefore, I shall not only make suggestions as to a new allocation of revenues, but will attempt to picture India's financial position as it may develop in the next decade. To make a forecast of the finances of any country ten years hence is a highly speculative undertaking and there are so many uncertain factors in India that the attempt is in her case particularly hazardous. In the circumstances the only justification for doing so is that if no attempt is made to form such a picture any financial settlement or allocation of revenues is a leap in the dark, as experience of the Montagu-Chelmsford and Meston Committee plans has proved.

288. Instead of dividing the revenues of India as at present into two sharply defined classes, I propose to consider them under four heads, viz. :—

(*a*) Revenue collected and spent by the Central Government;

(*b*) Revenue collected and spent by provincial Governments;

(*c*) Revenue collected by the Central Government and distributed to the provinces according to the province of origin;

(*d*) Revenue collected by the Central Government and distributed to the provinces on the basis of population.

Prospective Central Surplus.

289. As regards the first category, I assume that a surplus will emerge in accordance with the following general ideas, the figures being read in conjunction with the analysed accounts given in paragraph 264 for British India excluding Burma :—

(*a*) The customs revenue will expand at the rate of about $\frac{3}{4}$ crore a year, giving an addition of $7\frac{1}{2}$ crores at the end of the decade.

(*b*) The yield of the income tax will rise by at least 4 crores as a result of tightening up the taxation of income from foreign sources, lowering the exemption limit and steepening the gradation. This is a conservative estimate, and I should put it much higher but for the lack of resilience that has been shown by the income tax in recent years. If agricultural incomes are taxed, it will be higher (say 5 crores) owing to the fact that many composite incomes will become taxable at a higher rate than hitherto.

(*c*) The expenditure on the Army should in any case drop to 52 crores (49 excluding Burma) in 1933. I assume, however, that something like this saving of 3 crores will have to be added to the present Civil expenditure of the Central Government (now 15 crores) in connection with the development of research, civil aviation, etc.

Some further saving under the head of defence should, however, certainly be contemplated beyond the 52 crores referred to, and it would be a modest estimate to assume that this expenditure will be reduced to 48* crores in 1940, of which, say, 3 would be charged to Burma. I assume that this saving of a further 4 crores will not be swallowed up by increased central expenditure on the civil side. If this further saving is not realised, or if it is balanced by other central expenditure, the allocation of revenues contemplated in the next paragraph will not be completed in ten years but will be delayed for fourteen or fifteen years or until such time as the natural expansion of the revenue provides the necessary funds.

(*d*) The railway receipts will increase as the capital at charge rises. But the charge for redemption of debt will also increase, and, in any case, it is doubtful whether it would be wise to take a steadily rising contribution from the railways into the general budget in view of the tendency of railways to obsolescence and the urgent need for reducing fares and freight rates. I, therefore, take no credit from this source. On the other hand, the present allowance in the budget for interest on the sinking fund on the general debt should be sufficient not merely to cover present interest charges, but also the obligation under Savings Certificates. The total figure under the head of debt has been rapidly falling, but it is raised in the present budget. I assume that it will fall to the level of last year. If things go well, it should fall substantially below this; but India may not be able to count on borrowing under a new constitution at a rate as close to that paid by the Government of Great Britain as in the past.

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* A burden equivalent at post-war prices to the pre-war Army charge would be 44 crores.

(*e*) The preceding items suggest that there will be a surplus of 16½ crores at the end of ten years on the existing basis of taxation. Two crores must be deducted from this on account of the disappearance of the net opium revenue, leaving a surplus of 14½ crores.

290. Assuming that a surplus of these dimensions is realised, it would permit of a substantial re-allocation of revenues on the lines indicated below.

Re-allocation of Existing Revenues.

FOREIGN LIQUOR.

291. There are first, certain minor adjustments which have been under discussion for some years, and which for fiscal as well as administrative reasons seem desirable. At present, the proceeds of customs duties on imported wines and liquors are credited to the Central Government, while provincial Governments control the possession, transport, purchase and sale of *all* alcoholic liquors and levy excise duties and license fees in relation to such articles. This dual control has been a source of administrative friction in several cases. Provincial Governments are now in a position to tap this central source of revenue by a levy, in the guise of vend fees or transport fees, of what in effect is really an addition to the customs duty on this class of liquors. They may also, in pursuance of their policy of prohibition, restrict or prohibit the sale of foreign liquor. It is clear that, in order to avoid conflicts of interest between the central and provincial Governments, the sphere of taxation in respect of foreign liquor should be clearly defined and that the customs duty on foreign liquor should be brought into relation with the excise policy of the provinces. It was suggested at one of the annual conferences of Financial Members that this should be done by reducing the customs duty to the standard luxury rate of 30 per cent. and that the provinces should be given the right of imposing further duties on foreign liquor in the form of excises. The proposal, it is stated, has been accepted by the Financial Representatives of the provincial Governments. If the provinces levied excise rates equivalent to the balance of the duties now collected in excess of 30 per cent., they would gain Rs. 1½ crores. They would also have the advantage of controlling the level of taxation on all alcohol consumed within their borders. This might well enable them to increase their excise revenue substantially, especially as the present customs duties are very low as compared with the corresponding duties imposed in this country. Bombay and Bengal would specially benefit by this change, since a very high proportion of imported liquors and wines is consumed in these two provinces.

COMMERCIAL STAMPS.

292. Another change which has been accepted by provincial Governments, subject to adequate compensation, is the surrender of receipts from certain commercial stamps, which ought to be uniform throughout India. The authors of the Montagu-Chelmsford Report had, in fact, suggested that the revenue from general stamps should be allocated to the Central Government, but it was on the recommendation of the Meston Committee that this source of revenue was ultimately made provincial. The Government of India, however, reserve the right of fixing the duties on some of the more important items in the Stamp schedule. A re-transfer of general stamps to the Central Government was recommended by the Indian Taxation Enquiry Committee, and the proposal, which was endorsed by the Government of India, was discussed at the annual conference of Financial Representatives held in November, 1926. A Sub-Committee of the Conference which considered the question in detail recommended the transfer of only certain commercial and quasi-commercial stamps to the Central Government. A list of these is given in an Appendix to the Central Government memorandum on the division of the sources of revenue.* It is clearly necessary that the change should be made, for, as the Government of India have pointed out, such important problems as the extension and improvement of banking and money market facilities, which they have to deal with, are closely bound up with questions of stamp duty. For instance, on the recommendation of the Royal Commission on Indian Currency and Finance (1926), the Government of India abolished the stamp duty on cheques, but this necessarily involved a loss to provincial revenues. It is, of course, desirable that the revenue should as far as possible be assigned to the authority which controls the rates of duty. Again, the rates charged on stock and other transfers by any particular province are limited by the risk that, if it enforced higher rates than another centre, business might be transferred to the latter. Centralisation would prevent competition of this kind. The yield from commercial stamps has been estimated at Rs.1½ crores at present, but it will steadily grow.

Thus the losses and gains by the Central and provincial Governments from these two changes would approximately balance.

INCOME TAX.

293. Secondly, in order to meet the claim of the industrial provinces, a substantial portion of the revenue from income tax should be assigned to the provinces according to certain principles. Two methods by which the allocation might be made have been considered in recent discussions.

* See Vol. V, Page 936.

(1) The proposal of the Governments of Bombay and Bengal that half the income tax and super-tax *collected* within the province should be assigned to the province.

(2) The proposal of the Indian Taxation Committee that the basis of allocation should be the tax paid by residents of the provinces on their income *from all sources*, including in that income the dividends received by them from companies carrying on operations outside the province.

The objections to an allocation on the basis of collections are stated in paragraph 279 of my report. If the adminstrative difficulties of making the preliminary adjustments as regards incomes of companies could be overcome the method would be more equitable, since it takes into account the economic resources of the provinces more fully than is possible if only personal incomes are adopted as the basis. The difficulties of apportioning incomes according to origin are, however, bound to be very serious, especially in a vast country like India. The apportionment would have to be made on arbitrary principles, and each case would probably become the subject of debate between the provinces. It would involve the constitution of some neutral tribunal that would decide when agreement became impossible. The present tendency in industrial organisation is towards amalgamation, and these difficulties will grow as India develops industrially.

The recommendation of the Taxation Committee is based on a well-recognised principle, which is easily understood. It presents no serious administrative difficulties, since under the income tax law of India, the income tax officer is required to obtain from every person liable to income tax a return of his income from all sources. The method has the disadvantage that it does not take into account incomes earned in India of persons living abroad, or the tax levied upon the undistributed profits of companies. Allocation on the basis of residence has, however, the important advantage from the provincial standpoint that it enables the provinces to levy a surcharge on the provincial portion of the income tax. This point is dealt with further below. Theoretically, there is no reason why the provinces should not also be given a portion of the super-tax. I have not included it, mainly because I do not think the Government of India can at present make the financial sacrifice which this would involve. The question might be reconsidered, if necessary, after ten years. The income tax and super-tax receipts, excluding those collected in Burma, amount to 15 crores. If, however, the distribution is restricted to proceeds of the income tax on personal income, the amount involved is in the neighbourhood of 9 crores, half of which would give the provinces 4½ crores. At the end of ten years this allocation would probably grow to 6 crores. This

allotted portion of the income tax falls in the third of the groups of taxes mentioned above in paragraph 288.

THE SALT DUTY.

294. Thirdly, it is proposed that the proceeds of the salt duty should also be transferred to the provinces. This would, however, be distributed on a population basis and would fall into the fourth of the groups mentioned above. It would, on the basis of consumption at the present rate, cost the central budget $5\frac{3}{4}$ crores net.

Schedule for transfer of revenues.

295. In proposing these allocations it is obvious that the budget of the Central Government cannot stand any such deductions as these at once—particularly, since, in the first two or three years, the Central Exchequer will be gradually losing the opium revenue at a time when military expenditure is stabilised. It is, however, undesirable that the allocation should be capricious or that policy should be changed from time to time, with the possibility of continual disputes between the Centre and the provinces. It is, moreover, particularly desirable that the allocation of income tax should be begun as early as possible to meet the urgent needs of Bengal and to a less extent of Bombay. I, therefore, propose that a time-table should be drawn up, under which each of the above items should be transferred according to a definite schedule, which would complete the transfer in ten years with a loss to the revenue of the Central Government of $1\frac{1}{4}$ to $1\frac{1}{2}$ crores a year. Exceptional circumstances might, of course, make the transfer impossible, or cause temporary postponement; but the agreement between the Centre and the provinces would provide that this transfer would be a first charge on the surplus, and any delay would be made good in subsequent years. Though this plan would not give the provinces absolute certainty, it would enable them to form some idea of their prospective receipts.

New Provincial Taxes.

AGRICULTURAL INCOMES.

296. Turning to new sources of taxation, the first to be mentioned is the removal of the exemption on agricultural incomes from income tax. The whole of the proceeds should be allotted to the provinces in which they are collected on the ground that the tax is the complement of land revenue, that the source of income cannot be transferred and that the yield of the tax is more affected by the policy of the provincial Government than is the case with non-agricultural incomes. It is difficult to estimate the yield of this change and widely differing figures have been given. But in view of certain enquiries which have been made in particular areas it seems unlikely that it will be less than 5 crores. The tax falls under Group (c).

SURCHARGE ON INCOME TAX.

297. Secondly, reference has already been made to the possibility of levying a surcharge on the income tax, or rather on that part of it that is allocated to the provinces. The Finance Secretary of the Bombay Government, in his evidence before the Conference, said as follows :—

> "If there is to be any real provincial autonomy we ought to aim at a system of taxation which permits the local government to distribute its taxes according to principles which are recognised as being equitable . . . . We cannot tax industries at all; we can only tax the cultivator and the poor man."

In other words, the claim of the industrial provinces is not merely that they should receive a share of the income tax, but also that they should be permitted, within limits, to adjust the rates of tax so as to rectify inequalities in the incidence of provincial taxation as a whole. The Punjab Government has also for similar reasons urged that provinces should be given the power of levying a surcharge on the central income tax. Clearly such surcharges can only be levied on the basis of residence, and the Central Board of Revenue see no administrative objection to the proposal.* It is true that difficulties may arise from the existence of varying rates of income tax in different parts of the country; but these difficulties have been met and overcome elsewhere, and could be in India, if the permissible margin of differentiation is small. It is suggested, therefore, that the provinces should be permitted to levy a surcharge amounting to one quarter of the tax on personal incomes or one half of that which will be transferred to them under this scheme. This would yield 2¼, and at the end of ten years, 3 crores of revenue. Although the tax would be centrally collected, it is one which is entirely dependent upon the will of the province concerned.

TERMINAL TAXES.

298. Provinces should further be empowered to levy terminal taxes in accordance with the conditions indicated in a previous section. It is roughly estimated that these terminal taxes might produce at the end of ten years as much as 10 crores. These taxes fall within Group (b).

The disadvantages of terminal taxes and supplementary income taxes have already been discussed, but, if left to the provincial legislatures, they have the great merit of enabling those bodies to vary in an important way the level of direct taxation as well as to impose a general consumption tax which is capable of yielding very substantial sums.

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* In practice this would be collected by the officers who collect the general income tax; but the proceeds would be immediately handed over to the provinces.

Provincial Fund.

NATIONAL EXCISES.

299. There remains the question of new all-India taxes levied for provincial purposes. These would consist of the excise duties mentioned in a preceding chapter. I suggest that a Provincial Fund should be established, to be fed as soon as possible by new excises on such commodities as cigarettes and matches, and that, when the central budget situation permits, the proceeds of the Salt duty should also pass into the Fund. When this transfer has been made, these three excises would provide the Fund annually with a sum in the neighbourhood of 14 crores a year at the end of ten years, which could be substantially increased if other excises were added or heavier excise rates imposed.

Distribution of Provincial Fund.

300. The resources of this Fund should be automatically distributed to the provinces on a "per capita" basis. This does not involve a very sweeping redistribution of resources, for a moment's consideration will show that taxes such as these are levied more evenly from all parts of India, than any other form of taxation. At the same time, there is no doubt that the yield would be somewhat heavier from the more prosperous provinces than they would receive back on the basis of their population. The plan would, therefore, to that extent benefit the poorer regions. This help would increase in proportion as the total resources in this fund increase.

Effect of scheme analysed.

301. As a result of the changes indicated, the four groups of taxes mentioned above would consist of the following items :—

(a) *Revenue raised and spent by the Central Government.*

In accordance with the preceding outline, this would include :—

(1) Customs.

(2) Income and Super tax, less half the personal income tax assigned to provinces.

(3) Commercial Stamps.

(4) Railway Profits.

(5) Profits from other Central services.

If there should ultimately emerge a further surplus, even after all the changes outlined have taken place, it would be in accordance with the general principles of this scheme that a certain definite and increasing proportion of the customs revenue should be paid into the Provincial Fund constituting Group (d). On the other hand, the Central Government must have the power in the case of emergency to raise additional revenues. It would upset the whole equilibrium of the scheme, if it were authorised to meet special circumstances by diverting the revenues intended for the provinces. Provincial legislatures could not build up and develop

their services, if their funds were liable to be diverted for centı purposes on some authority other than their own. Th emergency powers of the Central Government must, therefore, consist in the right to make surcharges for central purposes on any or all of the taxes included in Groups (c) and (d).

It has been suggested that, in addition to this power, the Central Government responsible for the defence of the country must have authority to prevent taxation for other purposes rising beyond a certain level, since this might impair the possibility of imposing emergency taxes. I do not accept this view. Expenditure by the provinces on " nation building " services should increase and not diminish the taxable capacity of India.

(b) *Revenues raised and spent by the provinces.*

In addition to the existing provincial sources of revenue, this group would include terminal taxes and the right to levy surtaxes on personal incomes chargeable to income tax. In both cases, maximum rates at which these could be levied by the provinces should be fixed, on the ground that excessive differences in these taxes between neighbouring provinces would have harmful economic reactions on inter-provincial trade and on the domicile of business.

(c) *Taxes centrally collected but distributed to provinces according to origin.*

This group would include 50 per cent. of the yield of personal income tax allocated to the provinces, and the whole of the income tax on agricultural incomes.

(d) *All-India taxes collected centrally but distributed according to population.*

This group would include the general excises.

302. The situation of the provinces as a whole (but excluding Burma) at the end of ten years under this scheme and on the basis of the assumed yield of taxes would be as follows :—

	Crores.
Present Revenue (1929-30 Budget)	78
Group (b)	
Surcharge on personal Income Tax	3
Terminal Taxes ... ... (say)	8
Group (c)	
Half of personal Income Tax transferred from Centre	6
Agricultural Income Tax	5
Group (d)	
Provincial Fund	14
Total	114

Some modest addition may be made to this figure on account of expansion in existing sources of revenue.

The Central Budget at the end of the decade after the proposed allocations have been made would be as follows :—

(In crores of rupees.)

Revenue.			*Expenditure.*	
Customs (after allowing for loss of portion of liquor duties)		54	Defence (reduced by 7 crores and 3 transferred to Burma) ...	45
Income Tax ...	20		Debt	10
Less allocated to provinces	6		Civil Administration ...	13
		14	Cost of Collection ...	3
Commercial stamps ...		2	Civil Works	$2\frac{1}{2}$
Salt (transferred)		Nil	Other (including pensions)	$3\frac{1}{2}$
Opium		Nil	Surplus	$4\frac{1}{2}$
Railways	9			
Less additional sinking fund and interest charges	3			
	—	6		
Miscellaneous		$5\frac{1}{2}$		
Total		$81\frac{1}{2}$		$81\frac{1}{2}$

303. These two tables, hypothetical though they be, will repay study. They are optimistic for they assume that all will go smoothly both politically and economically in India. They will be falsified if there is war, serious frontier trouble, internal disturbances or political unrest sufficiently serious to affect credit, trade and enterprise. They assume that India will be prepared to shoulder an increase of taxation both direct and indirect, but many provinces may hesitate to impose, at all events, those taxes the rates of which are entirely within their individual control. It is, however, difficult to see any other way in which India can find anything like the amount which she requires for her development, and even if all the suggested changes are made and these estimates realised, the figures do not show as large an increase in the spending power of the provinces as we set out to find.

The estimate does, it is true, show a surplus of $4\frac{1}{2}$ crores under the heading of the central budget. But before assuming that this can be made available for the provinces—either by transferring a portion of the customs revenue to the Provincial Fund or in any other way—it must be remembered that the Indian States have put forward a claim to a share in customs revenue, which may have to be considered; that bad monsoons may prevent the anticipated expansion of customs revenue; that the assumed reduction in the cost of the army is very substantial and may not be realised; that the expansion in the Civil

Estimates of the Centre may very readily absorb more than 3 crores, and that the figures are based on an arrangement with Burma that involves the taxation of Indo-Burmese trade. This catalogue illustrates the many contingencies that may falsify an estimate of this kind and also emphasises the fact that the claim for additional revenue in the provinces is not one that can be dealt with on its own intrinsic merits, but must compete with many others for a share in limited resources. India in fact must take her choice as to how her revenue is to be spent.

304. The figures given relate to the provinces as a whole. Each individual province will naturally scrutinise them from its own point of view, and it may be worth while briefly to indicate the way in which the various provinces will benefit.

Thus of the poorer provinces, Bihar and Orissa would gain from a *per capita* distribution of national excises which would bring to her more than the amount levied from the population of the province. She, like other densely populated provinces, would also gain heavily from the terminal taxes.

Assam would benefit from the terminal taxes as well as from the taxing of agricultural incomes.

Bombay and Bengal would benefit from the allocating of part of the income tax and from the surcharge on income tax. Bengal and Bihar would both gain largely from the taxing of agricultural incomes.

The scheme would thus greatly help those provinces which have most to complain of under the present system, without either introducing a system of doles or making the provinces too greatly dependent upon financial policy determined outside their own borders. In this connection, however, it is desirable to develop a little more fully some constitutional aspects of the scheme proposed.

CHAPTER 7.—CONSTITUTIONAL IMPLICATIONS OF THE SCHEME.

Federal Character of the Scheme.

305. The scheme outlined in the preceding chapter has certain definite constitutional implications.

In the first place the conception of a Provincial Fund fed by the All-India taxes included in Group (*d*) and distributed on a predetermined basis is essentially a federal idea rather than a method appropriate to a highly centralised constitution. The scheme is, in fact, an attempt to link up the practical need for common rates of taxation and a common revenue-collecting department with the maximum fiscal independence of the provinces. Moreover, the Central Government has only a very indirect interest in the revenues under discussion. It follows that, if the provinces are to realise that it is they and not the Central Government on whom the responsibility rests for levying and collecting these revenues, the body which imposes and controls them should be directly representative of the provincial legislatures whose needs they are designed to meet. Further, it is essential to the scheme that the Provincial Fund should be entirely separate from the central budget, and that, while the Finance Member of the Central Government may properly take part in the deliberations of the provincial representatives when discussing these taxes, he should not take responsibility for initiating or attempting to force through particular proposals. The right of initiating either increases or decreases should rest with the Finance Ministers of the provinces, who have to present balanced budgets to their own legislatures.

The first of these points is in part met by the proposal of the Commission that the Legislative Assembly shall be chosen by the provincial councils instead of by direct election. But even if provincial Ministers could theoretically be sent to Delhi as members of the Assembly, this is unlikely to happen, and in any case they would sit as representing the provincial Council and not the provincial Government. It is, therefore, necessary to provide some machinery for discussion and action in regard to these taxes by the provincial Governments themselves. It is suggested that this should take the form of an Inter-Provincial Finance Council consisting of the provincial Finance Ministers and the Finance Minister of the Central Government, who would meet, say, once a year to consider proposals for changes in the taxes within the scope of the Provincial Fund. If the Finance Members of more than, say, three provinces desired a change, it should be the duty of the Finance Minister of the Central Government formally to move in the Assembly that the change be made. The motion would be left

to the free vote of the Assembly, and the Governor-General in Council would not have the right to certify taxes for the Provincial Fund.

Such proposals should be considered by the Assembly sitting in Special Session. In order that the Assembly should have before it the case for the proposed change, the Finance Ministers of the provinces (or a few specially deputed for the purpose by the Inter-Provincial Council), should be entitled to attend the Session and take part in the debate. They would not, however, be members of the Assembly for the purpose of voting.

The proposed changes would not require the approval of the Council of State, but would take effect on the vote of the Assembly alone.

Changes in these taxes would not be voted upon by the provincial legislative councils, but it would, of course, be open to any council to indicate its views by means of a resolution.

306. Secondly, financial responsibility will not be developed, nor will there be willingness to vote the necessary taxes, unless there are constitutional safeguards to ensure that the proceeds cannot be withheld or diverted to other purposes. This does not mean that the allocation of sources of revenue should be fixed for all time by statute. Indeed, the taxes in Groups (a), (b) and (c) can be dealt with, as they have hitherto been, by regulations under the statute or by Devolution Rules; but statutory provisions will be needed to set up the constitutional machinery in connection with the Provincial Fund described in the preceding paragraph. Further, it should be made difficult to alter the allocation to the Fund of particular taxes, and a change in this respect should therefore require the approval not only of two-thirds of the members of the Assembly but also of a majority of the representatives of, say, two-thirds of the provinces. Distribution of the proceeds according to population would be laid down by devolution rule, and any change in this basis should also require substantial majorities, both of the provinces and of the representatives voting.

307. The scheme proposed is not dependent upon the present layout of the provinces, for as has been shown in the preceding chapter, it will be of assistance to poor areas as well as to more wealthy ones. It should, however, be noted that any considerable subdivision of the provinces which would reduce the territory included with the big ports and capital cities would increase the disparity arising from the allocation of half the income tax to its province of origin.

General Financial Relations.

308. It remains to consider whether a scheme designed to give the greatest possible fiscal autonomy to the provinces involves any further change in the existing financial relations of the provincial Governments with the Central Government or with

the Secretary of State. There are two respects in which this is a matter of more than local interest. In the first place, it is impossible to separate the credit of the provinces from that of India as a whole. The provinces enjoy to-day, and should continue to enjoy the advantage of borrowing money raised on the credit of India as a whole; but a spendthrift province might seriously affect the standing of all classes of Indian securities and prejudice India's borrowing power. It is, therefore, a matter of general concern that the provinces should be solvent. Secondly, the provinces must asume certain obligations, including in particular debt charges and the salaries of members of the All-India Services employed in their areas.

The present financial relations have been described in Part V of Volume I of the Commission's Report, from which it will be seen that external authorities are concerned with the finances of the provinces in the following ways :—

(*a*) The Secretary of State still retains control over certain items of expenditure, viz., pay, etc., of All-India Services, expenditure of provincial Governors, important revisions of establishments in reserved subjects, and capital expenditure on large irrigation and navigation works. The Government of India have no control in these matters, but may advise the Secretary of State upon them when forwarding proposals to him.

(*b*) Except in the United Provinces, the accounts of the provinces are kept by a central service under the Auditor-General.

(*c*) The Central Government holds the provincial balances in Government treasuries and prescribes the minimum balances that must be held.

(*d*) Although provinces are entitled to borrow for certain specified purposes either in the open market or from the Provincial Loans Fund, loans are subject in the former case to the approval of the Central Government (or in the case of loans raised outside India, of the Secretary of State) as to terms, conditions, etc., and in the latter are subject to provision being made in the provincial budget of an adequate charge for interest and sinking fund.

(*e*) The accounts are subject to audit by the staff of the Auditor General, who is instructed to see that all expenditure of an unusual nature or devoted to objects outside the ordinary work of administration conforms to certain canons of financial propriety. It is also his duty to compile the Finance and Revenue Accounts of India, which are presented to Parliament.

The first of these limitations is not a method of securing solvency but is retained for special reasons connected with each of the reserved items. It does not, therefore, affect the present discussion.

Provincial Accounts.

309. As regards the second head, the provincialising of accounts should have the effect of strengthening the sense of financial responsibility and is in keeping with the tendency towards greater fiscal autonomy. This change has, hitherto, been deferred for reasons of economy for it would admittedly involve some additional expense, which would fall on the provinces. The present situation, however, requires reconsideration, for the accounts of the provinces will increase and become more complicated as their functions develop. It is not reasonable that they should be in a position to place this indefinite and growing expense on the Central Government. There is, of course, no reason why a province which desires to do so should not contract with the Central Government as its agent to keep its accounts and supervise its accounting staff on its behalf; but if it does so, the province should be charged with the cost involved. If this charge is made, there is little doubt that the accounts of the provinces will ultimately be kept by a provincialised service under the control of the provincial Governments.

Provincial Balances.

310. As regards the keeping of provincial balances, it has been suggested that here again it would be more in keeping with the idea of financial autonomy, if the provincial balances were separated and retained within the control of the provincial Governments. This would, however, devolve upon these Governments the task of finding ways and means of financing their requirements; and, though it would relieve them from the necessity of maintaining a minimum balance free of interest and save them some expense, if they found they could run on a narrower margin, it is more probable that in the aggregate it would be necessary to maintain larger balances, for the pooling of central and provincial requirements in every area should economise currency requirements. This holding of balances, though it may be used as a means of preventing a provincial Government overspending its resources is no more than a banker does for his clients and is in fact a banking function. There does not appear to be any strong demand for altering this system at present. The provincial Governments have no organisation in being to supersede the existing one and would presumably have to enter into arrangements with the Imperial Bank of India. If and when a Central Bank is created in India, this institution will presumably take over this function. Meanwhile, there are obvious advantages in the Government continuing to do this, but it should perform the service on a commercial basis, and should not attempt to make undue profits out of the business for the benefit of the central budget. Nor should it use its position to interfere in the drawing up of programmes of expenditure or to control policy. The keeper of the cash, however, whether he be a bank or a Government treasury, will always have the

salutary, if sometimes unpleasant, task of putting a check upon overspending by insisting that accounts are not overdrawn.

Borrowings.

311. The financial stability of Governments is, however, more often endangered by unwise or excessive borrowing than by overdrawing their accounts at the bank. In this connection the authors of the Reforms considered that, if the provinces were to have any real measure of independence in financial affairs, they must have some power to determine the purposes, the amount and the time of their borrowing programme. It would, however, be undesirable that they should act entirely independently. The present restrictions were therefore designed to give them as much freedom as seemed feasible. The need of some qualification of unrestricted liberty still exists. Clearly, it is desirable to prevent competition between the provinces themselves and between the provinces and the Central Government. Further, if India's credit is to be maintained, her borrowing power should not be overtaxed by excessive demands on either the internal or foreign capital markets, her loans should, save in exceptional circumstances, be for capital purposes and not to meet revenue deficits and care should be taken to ensure that adequate provision is made for redemption. These considerations mean that loans—even when raised for obviously productive purposes—should be subject to standard regulations and that the raising of loans should be co-ordinated.

It is, therefore, proposed that there should be set up in India a Provincial Loan Council, consisting of the Finance Member of the Government of India and the Finance Ministers of the provinces. It would thus consist of the same personnel as the Inter-Provincial Council referred to in a previous paragraph, which would be responsible for suggesting changes in the Provincial Fund. The Council would establish a borrowing programme, lay down the regulations referred to in the preceding paragraph, subject to the approval of the Government of India and arrange terms etc. with them.

The change I have suggested would mean in practice that the management of the Provincial Loans Fund would be transferred from the Finance Department of the Government of India to a Council consisting almost entirely of representatives of the provincial Governments. The functions of the Council, however, in the present transitional stage of India's constitutional arrangements, would have to be advisory. If the question of withholding sanction for loans arose, owing to infringement of the regulations which provide, among other points, that loans must not be raised without special sanction for meeting revenue deficits, action would be taken by the Central Government after consultation with the Council.

As responsible government in India develops, external control over the borrowing operations of the central and provincial

governments will ultimately disappear. It may then be desirable to bring the loan operations of the Centre and of the provinces into closer association by modifying the constitution of the Loan Council and giving it functions similar to those of the Council recently set up in the Commonwealth of Australia, which deals with the requirements both of the Commonwealth Government and the constituent States, establishes a joint borrowing programme, and provides for co-ordinating the issue of all loans through a single channel.

Closely connected with any such development, there are two suggested changes in the arrangements for raising loans in England which may have to be considered. Neither of them, it may be noted, is inconsistent with the retention by the Secretary of State of his general powers of control over the financial affairs of India.

In the first place, such operations are at present entirely conducted by the Secretary of State for India, although the management of ways and means in India, the control of currency in India, and the raising of loans in India rest in practice with the Government of India. It is stated that the raising of sterling loans by the Secretary of State instead of by a representative of the Government of India has had the effect of preventing the Government from coming into direct touch with the City and has complicated the management of Indian finances as a whole. It has, therefore, been proposed that the function of borrowing in London, which is really an agency function, should be transferred to the High Commissioner for India. If this transfer is made, the High Commissioner will need expert advice, and it would be necessary that he should be assisted by a small committee of experts of a standing similar to that of the members of the Finance Committee of the India Council.

But whether this change is made or not, there is very little justification for the retention of the present provision which requires the authority of an Imperial statute for sterling loans raised by the Secretary of State for India. The origin of this restriction has been explained in Part V of the first volume, and, as has been pointed out there, there is no corresponding provision in the case of loans raised by the Crown Colonies or the Dominions.* Nor do loans in India require parliamentary sanction. I suggest that this provision, which tends to create the false impression that Indian sterling loans are guaranteed by Parliament, should hereafter be abandoned.

Audit.

312. Finally, there remains the question of audit. At present accounts are kept and audited by the same staff. This is unsound in theory; and whether accounts are provincialised or

* The Secretary of State for the Colonies does not act as Agent either for the Dominions or for the Crown Colonies for raising loans in England. In the latter case the loan is raised through the Crown Agents.

not, the auditing staff should be entirely separate. The Auditor General has been given under the constitution a very special status and it is highly desirable that the accounts of the Central, as well as the provincial Governments, should be audited by an officer holding an independent position. He should, however, fulfil a triple function. The Auditor General's report on provincial accounts has to be presented in the first place to the provincial Governments and submitted for comment to the provincial Council with whom financial responsibility will reside. It must also go to the Government of India and the Secretary of State. It will thus keep the Central Government informed as to the solvency of the province and the carrying out of its statutory obligations. Thirdly, the accounts as finally approved by the Auditor General, which must be the basis on which the credit status of each province rests, should be submitted to any authority that may be concerned in the sanctioning of loans.

CHAPTER 8.—THE PROBLEM OF THE INDIAN STATES.

Claim to Share of Customs.

313. My report has hitherto dealt solely with British India. Any new scheme of financial relations, however, should take account of the problem of the Indian States. Under the scheme outlined in preceding sections, the Central Government will become mainly dependent upon customs revenue. The States have put forward a claim to share in this, and the Butler Committee, (Indian States Committee, 1928-29) recognised that there is much force in the claim. It is, indeed, obvious that the Indian customs tariff does in fact impose taxation on the inhabitants of the Indian States to the extent that they consume imported goods. In many of the States there is in addition a duty levied at the frontier of the State so that the inhabitants pay double tax. But it is pointed out on behalf of the Indian States that it is clearly impossible to levy as high duties as would otherwise be the case, if the goods have already paid duty on entering British India. Before the War, when duties were low, the grievance was not a very serious one, but the total customs and excise revenue of the Central Government has risen from 10 crores before the War to over 50 crores in the current year; and has become the largest and most elastic source of revenue in India to-day. This expansion has increased proportionately the burden imposed by the Imperial Government on the population of the States. Further, the raising of rates of duty has been associated with a protective policy, and though in some cases it is possible that the effect may be to encourage the establishment of industries in Indian States, their comparatively backward economic condition makes it much less likely that this will happen than that the industries will be established in British India. This means that the population will have to pay the higher prices of protection without reaping a due proportion of the benefits. In any case, the States have no voice in the determination of tariff policy.

Many claims and cross-claims may have to be considered and evaluated before a proper adjustment can be reached. Some of the States may advance arguments based on their treaty rights, or on the consequences which have flowed from the cession of territory. The contention that Indian customs duties levied at the ports were in effect transit duties, and as such prohibited by the Barcelona Convention, was not accepted by the Butler Committee, inasmuch as the Convention made a special exception for cases of this kind, and the Committee came to the definite conclusion that "British India is fully entitled to impose maritime customs for the purposes of India as a whole." Again, the greatly increased cost of Defence and other services which the Government of India performs for India

as a whole would have to be considered. Without attempting to reach conclusions as to the validity of the various arguments on either side, the following figures give an indication of the dimensions of the chief items involved.

In the view of the Butler Committee, the consumption of imported goods in Indian States may be roughly estimated as being about two-thirds as great per head as in British India. The population of the Indian States in 1921 was 68 millions out of 306 millions (which is the population of India, excluding Burma). On the basis of two-thirds consumption per head, this means that the consumption of the Indian States represents something like 16 per cent. of the goods imported. The net customs revenue for British India other than Burma after deducting the cost of collection, the receipts from export duties and a few other items amounted to 38 crores in 1928-29; 16 per cent. of this is approximately 6 crores. The corresponding pre-war figure would be about 1½ crores.

On the other hand, the cost of the Army has risen from 30 to 55 crores, an increase after deducting Burma's share of approximately 24 crores for British India. The population of the Indian States is 22 per cent. of the total—68 millions out of 306 millions; and the area 38 per cent.—598,000 square miles out of 1,570,000 square miles. Even the lower of these two percentages gives nearly 5½ crores as the amount of the increased cost of the army, which it might be argued could be attributed to the Indian States.

Thus the chief claims and counter-claims are of a similar order of magnitude. It is not necessary to discuss here any of the minor claims, namely, that the States should take responsibility for part of the debt or increase in other All-India charges on the one hand, or, that the States should have a share in the salt tax, railway receipts and other budget items, on the other; for the amounts involved are small and, if admitted on one side or the other, would not greatly affect the picture that has been given of India's finances. In any case, if claims are to be admitted, they will have to be separately examined for each State or group of States and can obviously only be determined by adopting the proposal of the Butler Committee which recommended " that an expert body should be appointed to enquire into (1) the reasonable claims of the State or group of States to a share in the customs revenue, and (2) the adequacy of their contribution to Imperial burdens."

Future Situation.

314. But, whatever the decision may be as regards the past, it is proper to point out that if future developments follow the course indicated in the previous chapters of my report, the financial position of the States *vis-a-vis* that of British India will change to the detriment of the former, for I have assumed

that customs revenue will steadily increase, that All-India charges will tend to diminish and that the resulting surplus in the central budget will release some central sources of revenue for the use of the provinces. Customs will thus become even more than at present the mainstay of the central budget, and the States will therefore bear a larger proportion than at present of All-India services. This proportion will steadily grow. If the expert committee decides that the States are bearing less than their share at present, this will not be unreasonable. But, if it decides otherwise, they will have a claim to a share in the future increase in customs. This is one of the unsolved questions alluded to in a previous chapter as a reason for the distribution to the provinces of something less than the total anticipated surplus on the central budget.

Share in the proceeds of the Excises.

315. But the matter does not end here. It has been suggested that it will be necessary to raise part of the funds needed for "nation building" services by means of excise duties on articles of common consumption, and that these excises should be uniform throughout India. But if, as seems inevitable, these excises are levied in the main at the point of production, these also will be a form of taxation on the inhabitants of the Indian States. As these taxes are to be used purely for local purposes, the claim will arise, either for the States to share in the proceeds, or for a rebate to be given on these goods when imported into the States. If such taxes are to play an increasing role in Indian finance, either the internal barriers between the States and British India will assume increasing importance, or some means must be found of harmonising financial policy in the two sections of the country.

In proposing that there should be an enquiry into the claim of the States for a share in customs and their contribution to Imperial burdens, the Butler Committee suggested that as a result of this investigation "a financial settlement would be made between the Imperial Government and the State or group of States on the lines of settlements made in the past between the Imperial and provincial Governments." This suggestion, however, only meets one part of the problem. A share in proceeds is a very practical matter from the point of view of the budgets of the States; but the circumstances are such that they may very properly ask to be consulted in regard to financial policy. The Commission has recognised that there are many matters which are of common interest to both British India and the States and have suggested that there is room for the progressive development of the machinery of consultation. Tariff policy and all-India taxation are clearly matters in which collaboration is badly needed. It is very undesirable that any new fiscal developments should foster internal barriers to trade; indeed, it has been suggested that any allocation of central

revenues to the States should be made contingent on the abolition of those that now exist and the creation of a real economic unity in India. Such terms cannot appropriately be discussed here, for the Commission has not been charged with the duty of examining this question; but if the finances of India tend, as is suggested in my report, in the direction of federal finance, and if all-India taxes are levied on a substantial scale for the benefit of nation-building services in the provinces, it will become of increasing urgency that the financial relations not merely between the States and the Imperial Government, but between the States and the provinces, should be appropriately regulated.

CHAPTER 9.—SUMMARY.

316. My specific conclusions and recommendations may now be briefly summarised. I have based this report on two general assumptions, namely, that it is both possible and desirable to improve the economic and social condition of India by a substantial increase in the expenditure on nation-building services, and secondly, that it is possible to raise additional revenues for this purpose, provided that the incidence of further taxation is adjusted to the capacity of the taxpayers to pay. If additional taxation is to be raised, however, it is necessary that the new constitution should ensure :

(*a*) that sources of revenue appropriate to their requirements are available for those authorities who have urgent and expanding services to administer;

(*b*) that all parts of India make a not unfair contribution to common purposes, and

(*c*) that responsibility for imposing additional taxation is definitely laid upon those who will have to incur additional expenditure.

317. The existing financial scheme does not adequately fulfil these conditions. In particular, the allocation of resources between the Centre and the Provinces respectively has been criticised and with justice on three main grounds :—

(*a*) Although the provinces have rapidly expanding needs, the sources of provincial revenue (of which the chief are land revenue, alcoholic excises and stamps) are almost stationary, while the revenue of the Centre (the chief sources are customs, non-alcoholic excises, income tax and salt duty) which has to meet comparatively stationary needs has expanded and is capable of further expansion.

(*b*) It has treated the provinces very unequally, by giving some of them a much greater proportionate increase of revenue than others.

(*c*) It has given practically no power to the provinces to tax industrial activities, and has therefore handicapped the industrial provinces.

318. An analysis of the central budget and of the elements which compose it shows that a surplus is likely to emerge gradually as a result of the growth of revenue—the chief contributor to which will be customs. This surplus, however, will not be realised if the expansion of trade is checked by internal disorder or external difficulties, if India adopts a policy of extreme protection or if central expenditure is allowed to grow by the expansion of central activities. The size of the surplus will be largely affected by the extent of the reduction that can be made in expenditure on defence, which is a very high proportion of the central budget.

319. Any prospective surplus in the central budget, however, will go a comparatively little way towards meeting the needs of the provinces. It is, therefore, essential to find new sources of revenue. Additional funds may be found from the following sources :—

(*a*) Increased yield of the income tax by lowering the exemption limits, by steepening the graduation in the case of intermediate incomes and by an amendment of the law relating to the taxation of income invested abroad. The rate is also low and a moderate increase should be possible.

(*b*) Abolition of the exemption of agricultural incomes from income tax.

(*c*) National excises on such commodities as cigarettes and matches.

(*d*) Terminal taxes.

Item (*d*) is a form of taxation which falls naturally within the provincial sphere; but the others are taxes which should be the subject of central legislation and should be centrally collected.

320. Three methods of dealing with this situation have been suggested :—

(*a*) the assignment of all revenues (including customs, etc.) to the provinces where they are collected, and the financing of the Central Government by means of appropriate contributions from each province;

(*b*) the transfer to the Centre of certain services now performed by the provincial Governments or, while leaving administration in the hands of the provincial Governments, the financing of them from central funds by means of a system of grants-in-aid or by some other method;

(c) the supplementing of the sources of revenue assigned to and collected by the provinces by certain national taxes collected by the Centre on behalf of the provinces and distributed to them on some predetermined automatic basis.

The first method is open to certain practical and theoretical objections. In the first place, if there are to be no internal barriers in India, customs duties and similar taxes must be collected at a uniform rate, and in any case can most conveniently be collected by a central organisation. Secondly, the plan would involve conferring on the Central Government the right to intervene and to compel a defaulting province to produce its contribution to the central exchequer. In the third place, the scheme is based on the assumption that each province has a natural right to all the revenues collected within it. This assumption is indefensible. The customs revenue, which is collected at port is actually paid in some measure by people all over India. Income tax profits are collected in the province where the headquarters of a business are situated, but often do not arise within the province. The absence of internal economic barriers has in fact made India an economic unity, and the taxation which

arises from the activities of centres, such as Bombay and Calcutta, may properly be regarded as due to the whole economic life of India. For this reason, it is claimed and with justice that some of the revenues collected at the great centres of activity should be spent on matters of common interest or redistributed according to the needs of the various provinces for expenditure locally.

The second method has many arguments in its favour, and it would be possible to devise schemes that would not involve a revival of the system of 'doles' with all their uncertainties. They would, however, imply central inspection and at least a limited control over local activity; and when the nation-building services develop on a large scale, it will require a vast bureaucracy to administer them from a single centre or even to exercise financial control. Considering the size of India, and the diversity of local conditions, centralisation of such activities except in their early stages does not seem a practical, even if it were a desirable, policy.

There remains only the third method. For the reasons given, distribution to the province of origin does not entirely meet the necessities of the case. Of alternative methods, the only one which is at once simple, automatic and to some extent a test of "needs," is distribution in proportion to population. To distribute a large part of the revenues of India on this basis would be unfair to the provinces with a sparse population and would tend to hold back the progress of the more advanced, and by transferring resources from the richer to the poorer provinces, would divorce responsibility for taxation from responsibility for spending. But though for these reasons the method can only be used to a limited extent, the haphazard character of the provinces of India and the inequalities resulting from historical accident make it necessary to introduce into the financial system of India some device that will tend to mitigate the inequalities that at present exist.

A complete scheme of allocation should, therefore, provide for the distribution of centrally collected revenues in part according to origin and in part on a population basis.

321. The scheme proposed for the raising and allocation of resources in accordance with these principles is as follows :—

(i) For administrative and fiscal reasons it is desirable that the customs duty on imported liquor should be brought into relation with the excise policy of each province, since the present arrangements, under which customs duties are central, while provincial Governments control the possession, transport, purchase and sale of such liquor, have led to considerable administrative friction. The duty on imported liquor should be reduced to the standard luxury rate of 30 per cent. and the provinces should be given the right of imposing further duties in the form of excises on such

liquors in accordance with their excise policy. This would involve a loss of $1\frac{1}{2}$ crores to central revenues.

(ii) The revenue from commercial stamps should be transferred to the Centre. This proposal has been accepted in principle by most of the provincial Finance Members.

(iii) To meet the claims of the industrial provinces, one-half of the proceeds of the income tax paid by residents of a province (including the tax on dividends received by them from companies carrying on operations outside the province) should be assigned to the province concerned. Super tax would, however, continue to be entirely central, since the Central Government cannot at present make the financial sacrifice which a division of this tax would involve. The question of super tax should, however, be reconsidered after ten years. It is estimated that this would give the provinces $4\frac{1}{2}$ crores a year on the basis of the present yield of the income tax.

(iv) In order to enable provinces to adjust taxation between their rural and urban classes, provincial Governments should have the option of levying a surcharge on the income tax collected on the incomes of residents in the province. The surcharge should be limited to half the tax transferred to them in accordance with the preceding paragraph, i.e., to one quarter of the total tax.

(v) The exemption from income tax of agricultural incomes should be abolished by definite stages and the whole of the proceeds of the taxation of these incomes should be assigned to the province of origin.

(vi) Provinces should be empowered to levy terminal taxes for provincial purposes in accordance with the conditions indicated in the body of the report.

(vii) There should be constituted a Provincial Fund fed by specially designated taxes, including the following :—

(a) excise on cigarettes,

(b) excise on matches, and

(c) the duty on salt, to be transferred when the central budget situation permits.

The resources of this Fund should be automatically distributed to the provinces on a *per capita* basis.

322. The central budget cannot at present afford the immediate transfer to the provinces of all the resources which it will ultimately lose under the preceding scheme. It is, however, undesirable that the allocation should be capricious or that policy should be changed from time to time. It is, therefore, proposed that a time-table should be drawn up under which each of the above items would be transferred according to a definite schedule that would complete the transfer in ten years. In drawing up the schedule, the urgent needs of Bengal and to a less extent of Bombay should be recognised, and the transfer of income tax receipts should be begun as early as possible.

323. If all the preceding proposals are carried out it would add nearly 40 crores to the revenues of the provinces by 1940, of which 12 would have been transferred from the central budget.

Some indication of the way in which this scheme will meet the difficulties of each province is given in the text of my report.

324. The proposal to assist the provinces by means of a Provincial Fund is essentially a federal idea. The Central Government will not be directly interested in the amount of the Fund or in the distribution of the proceeds, and the body that controls the taxes which it includes should, therefore, act on behalf of the provinces. The Central Legislative Assembly in the form proposed by the Commission is a suitable body to vote these taxes; but the initiative in regard to changes in them should be taken officially by the provincial Governments of whose budgets they will form an integral part. It is, therefore, proposed that the Finance Ministers of the provinces should form an Inter-Provincial Council that would meet once a year to consider proposals in regard to the Fund. If the Finance Members of more than, say, three provinces desire a change, it would be the duty of the Finance Minister of the Central Government formally to move in the Assembly that the change be made. The motion would be left to the free vote of the Assembly, and the Governor-General in Council would not have the right to certify taxes for the Provincial Fund.

Such proposals should be considered at a special session of the Assembly, and in order that the Assembly should have before it the case for the proposed change, the Finance Ministers of the provinces (or a few specially deputed for the purpose by the Inter-Provincial Council), should be entitled to attend the session and take part in the debate. They would not, however, be members of the Assembly for the purpose of voting.

Changes in the Provincial Fund would not require the approval of the Council of State, but would take effect on the vote of the Assembly alone.

Constitutional safeguards would be required to ensure that the proceeds of taxes levied for the Fund should not be diverted to other purposes and that the allocation of taxes to the Fund and the basis of its distribution should not be changed without the approval not only of a two-thirds majority of the Assembly, but also of a simple majority of the representatives of, say, two-thirds of the provinces.

325. Proposals are made with regard to the keeping of provincial accounts and balances and for the setting up of an Advisory Loan Council to co-ordinate the loans of the provinces, draw up standard regulations relating to loans and consult with the Government of India in regard to all provincial loan operations.

326. The levying of maritime customs involves the taxation of the population of the Indian States by the Government of India and the States have put forward a claim that they should therefore receive a share in this customs revenue. But the counterclaim involving a not dissimilar amount may also be put forward that the States ought to bear a part of the increasing cost of Imperial burdens. The Butler Committee has, therefore, proposed that an expert body should be appointed to enquire into both claim and counter-claim.

But whatever the decision may be as regards the past, the development of India's finance in accordance with the plan outlined in this report will make the Central Government increasingly dependent on customs revenue and increase the taxation which it imposes on the population of the States at a time when the cost of the Imperial burden is stationary or falling. It will, thus, strengthen the case for determining what is the burden that may in equity be imposed upon the States. Further, if uniform national excises are to play an increasing rôle in Indian finances, they will, if levied at the point of production, constitute a new form of taxation on the population of the States and make it still more important to find a means of harmonising the financial policy of the Indian States and of British India.

This matter is, moreover, not merely one of financial adjustment but gives rise to a claim that the representatives of the Indian States should be consulted on financial policy. The financial problem illustrates the need for the progressive development of the machinery of consultation between British India and the States, which the Commission have proposed.

While the responsibility for the conclusions reached in the preceding report are mine and mine alone, I wish to acknowledge with gratitude the debt which I owe to the wise counsel, to the unfailing patience and care and to the profound knowledge of India's financial system of Mr. B. Rama Rau. Without his co-operation I could not possibly have completed the task allotted to me in the time available.

W. T. LAYTON.

APPENDIX TO FINANCIAL REPORT.

FINANCIAL ASPECT OF THE SEPARATION OF BURMA.

1. In view of the fact that the Commission has recommended that Burma should be separated from India, it has been necessary in the preceding report to picture the future financial situation of India with Burma excluded and therefore to form some idea of the financial effects of separation. Some of these effects can be set down with precision, but others depend upon a number of debatable points which will have to be settled at the time of separation. The following note sets out the issues involved, and the approximate effect on the finances of India and Burma respectively on certain assumptions as to the basis of the settlement. This note is based upon estimates contained in a memorandum submitted to the Commission by the Burmese Government, and on the further evidence and statistics supplied by the Finance Member of Burma.

Financial consequences of Separation.

2. If Burma is separated, the customs, income tax and other central taxes collected in Burma, will be taken into the Exchequer of the Burmese Government. On the other hand, the latter will become chargeable for such expenditure of the Indian Government as is now made in or on behalf of Burma. It is generally assumed in Burma that this transfer would show a large gain in her favour with a corresponding loss to India. Before reaching a conclusion, however, it is necessary to answer the following questions:—

(*a*) What items of the Indian Budget should be transferred to Burma and what should be the basis of the transfer; in particular, what should be the basis for estimating the charge assigned to Burma for defence and for her share of the debt of India? What new charges, if any, would be incurred by Burma in virtue of her existence as a separate entity?

(*b*) Would all the revenues which are now collected within her borders on behalf of the Central Government of India continue to be collected and be available for a separate Burma? On the other hand, would there be any additional revenues which either India or Burma could collect as a result of separation?

(*c*) Hence, would India's loss precisely correspond to Burma's gain, if any, and vice versa?

As regards the first of these questions, the Finance Member of the Government of Burma calculates (on the basis of the accounts for 1926–27) that expenditure for civil administration amounting to 186 lakhs, which is now borne by the Government of India, would become chargeable to Burma. This is made up of the following items:—

	Expenditure (in lakhs of rupees).
Political	74
Collection of central taxes ...	20
Pensions, etc.	30
Audit...	11
Scientific Departments	15
Ports and Pilotage	9
Other heads	27
	186

In addition to the above items some new expenditure would also be involved resulting from the independent status of Burma. Also some expense might be incurred in the management of the currency. But such items would be small and an addition of 10 to 15 lakhs would cover them.

Military Charges.

3. There remain the two outstanding questions of the army and the debt. As regards the army, the Commission was informed that the actual military expenditure in Burma amounted in 1926–27 to 122 lakhs. But Burma clearly ought to bear some proportion of the over-head charges and expenditure in England.

Moreover, it was admitted that for two reasons the expenditure in Burma is much lower than it would need to be, if the military situation in Burma were regarded as an entirely independent problem. One is the proximity of the Army in India, which can be used to re-inforce the troops in Burma at short notice, and the other the fact that Burma is largely defended by sea and depends upon the British Navy. It can, therefore, reasonably be claimed that Burma's contribution towards defence is by no means fully represented by the small expenditure upon the troops actually in Burma and that she may properly be called upon to pay something further towards Imperial defence. If the 9½ per cent. of the budget rule, which is in force to-day in Ceylon,* were applied to Burma, it would make her contribution about 2 crores. But Ceylon is obviously less vulnerable from the land than Burma whose frontier problem cannot entirely be separated from that of British India. If Burma were charged three crores, it would represent 15 per cent. of her total revenue after separation, which compares with over 30 per cent. for British India and about 12 per cent. for the Straits Settlements.*

Debt Charges.

4. On the question of the debt, there has been much academic discussion as to whether or not Burma should pay for the cost of the Burmese wars in the middle of the nineteenth century, and abstruse calculations have been made from the time of the conquest of Burma onward showing that, if the cost of these wars is debited to Burma, she has, practically throughout her association with India, been a deficit province, and that if these deficits are accumulated at compound interest her debt to India is now 90 crores. On the other hand, it is argued, and with force, that India has not been paying interest on this basis, but that in fact before the war her so-called unproductive debt had entirely disappeared, and that it is not reasonable to continue to charge against Burma interest on debt that has been repaid one or two generations ago out of taxation, still less to calculate this accumulation at compound interest. If this compound interest accumulation is left out of account, Burma is not in fact a deficit province at all, but contributed before the war and to a growing extent to the general expenditure of India. Since the war, her contribution has risen still further. Meanwhile, the unproductive debt of India, which was estimated recently at 180 crores, has grown to this figure mainly from the grant of 150 crores, which represents the gift of India towards the expenses of the war, and from deficits realised by the Central Government in the years following the war. It seems reasonable that Burma should be debited with a proportion of this unproductive debt on a basis to be agreed upon. On the basis of the revenues raised in Burma and British India respectively that proportion would be in the neighbourhood of 10 per cent.

It has been argued, however, that Burma's share should be rather higher than this. In saying that the unproductive debt was reduced to zero in 1915, it must be borne in mind that this was accomplished in part by the use of the Famine Insurance Fund, which was in operation before the war, and that Burma, which is not subject to famine, made no contribution towards this. To the extent therefore that India has amortised her debt without Burma's help the latter is not entitled to benefit. These and other factors have to be taken into consideration in arriving at an estimate of the unproductive debt to be apportioned between the two countries. The minimum amount to be assigned to Burma suggested in evidence to the Commission was from 7 to 8 crores with an interest and sinking fund charge of 50 lakhs. On the other hand, a compound interest calculation would make her debt 90 crores with an interest charge of 5 crores. If, after taking into account the considerations referred to above, the debt to be apportioned were put at 300 crores Burma's share would amount to a figure of 30 to 35 crores with a net interest charge after allowing for amortisation of approximately 2 crores a year.

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* Ceylon contributes towards her defence the actual cost of the garrison or 9½ per cent. of her assessable revenue, whichever is the lower. The Straits Settlements contributes the actual cost of the garrison or 20 per cent. of her assessable revenue, whichever is the lower.

Additions to Burma's Budget.

5. It is not the purpose of this note to suggest what is the proper figure for these items which will clearly have to be fully discussed between the parties; but the foregoing comments have been made to indicate that there is a case to be made for some figure between the 3 crores (say 2½ crores for the Army and 50 lakhs for the debt) suggested in Burma and 8 crores (3 for the Army and 5 for the debt). In the following calculations, 5 crores has been adopted as a token figure, but it will be quite easy for the reader to make adjustments on the assumption of any alternative between 3 and 8 crores. Using this token figure, the net addition to Burma's budget after separation would be 7 crores made up as follows:—

Additional cost of administration indicated above	180 lakhs.
Debt and Defence	500 „
Cost of collection of additional revenue	20 „
Total	700 „

Separation and Customs Revenues.

6. Turning to the revenue side, the customs and excise collected in Burma in 1928–29 amounted to 657 lakhs. Whether this could all be collected is a question which depends on the commercial relations between India and Burma after separation. If Burma and India are separated without any special provision as to their mutual commerce, Burmese imports from India will become subject to the existing tariff, while goods shipped from Burma to India will equally become dutiable. This trade is so important to both countries and the trade relations between them have become so intimate during the period when they have been within the same tariff wall, that this question must be carefully considered. One of the motives for asking for separation is that Burma dislikes India's protective policy seeing that the industries so far protected are almost entirely situated in India and that Burmese consumers have to pay higher prices for the benefit of the Indian protected manufacturer. Burma, for example, wants duty-free steel. Now this consideration rules out the possibility of a customs union between the two countries under which, while being separate politically, trade between them would be free while they would adopt a uniform tariff *vis-à-vis* the outside world.

But if this plan is rejected, it does not necessarily follow that the existing tariff must apply to all Indo-Burmese trade. It has been suggested that a special preferential arrangement might be made between the two countries. Preferences within the Empire are, of course, general, but hitherto this has applied between the Mother-Country and the members of the Empire. Whether preferences between two Dominions, but not applicable to the Mother-Country or to the whole of the Empire, would be regarded as discrimination by foreign nations, is not certain. But there has in any case been a tendency to admit as exceptions to the most-favoured-nation clause cases where nations are dividing for the first time into separate political units. *A fortiori*, this would apply between members of the Empire. In any case, Burma and India could arrange preferences which would in fact operate almost exclusively between them, even though the preferential rates were applicable throughout the Empire, seeing that the commodities chiefly concerned—e.g. rice—are not subject to competition from other Imperial countries. If it were so desired, therefore, there is little doubt that some plan could be devised that would mitigate the effect that would otherwise be produced by subjecting each others' commerce to the full existing tariff.

Effect of Separation on Burmese Finances.

7. For the purpose of the present discussion, however, it is best to assume that Indo-Burmese trade will become subject to existing duties. This at once raises a very important question for Burma. Prior to the present budget, Burmese kerosene paid an excise duty in Burma of 1 anna per gallon and large quantities went to India free of import duty. Kerosene imported into India from other sources paid an import duty of 2½ annas per gallon. The rates under the new budget are 1½ annas excise and 2¼ annas import duty. There is no reason why India should, after separation, forego the difference between the excise and the import duty. It must, therefore, be assumed that Burma will lose the kerosene

excise on kerosene sold in India and that it will bear the normal import duty. A similar case is that of motor spirit. In this case the tax in India takes the form of an excise of 4 annas, and so far as the very large supplies which come from Burma are concerned, the duty is levied in that country. India will clearly be able to require that this should in future be collected in India. Allowing for about 25 lakhs, accounted for by Burma's consumption, Burma will lose 190 lakhs of the gross customs collections now made in Burma. It is further assumed that she will lose 25 lakhs by repealing the existing protective import duties. On the other hand, she will gain an additional 60 lakhs* from the application of the rice export duty to rice sent to India, and, according to the estimate of the Burmese Government, a further 116 lakhs from dutiable imports now received free from India. If these changes had been made in 1928–29, Burma, instead of collecting 657 lakhs would have collected 628 lakhs. This, with 185 lakhs from income tax, 35 from salt, 25 from railways and 10 lakhs from miscellaneous sources gives a total of 873 lakhs compared with the 7 crores of additional expenditure referred to above. Her gain, therefore, would be approximately 1$\frac{3}{4}$ crores. It has, however, to be noted that 176 lakhs of her revenue represents new taxation, some of which would fall on her own inhabitants, and that while her consuming industries would benefit from the removal of existing protective duties, her oil industry would have to face competition in India on equal terms instead of enjoying, as at present, the benefit of a protected market.

Effect of Separation on Indian Finances.

8. Looking at the Indian side of the question, out of the 7 crores additional expenditure by Burma, 686 lakhs represents expenditure transferred from India. Moreover, she would gain not only the whole of the existing excise lost by Burma, but also the additional revenue due to taxing all kerosene at the rate of 2$\frac{1}{2}$ annas. This increase would have yielded her in 1928–29 an additional 111 lakhs. Further, it is roughly estimated that she may gain some 25 lakhs from larger duties on other imports from Burma. These benefits to her budget, together amount to 1012 lakhs. Against this has to be set the loss of 912 lakhs of various revenue collected on her behalf in Burma. Her net gain would, therefore, be about a crore.

Statement showing Losses and Gains due to Separation.

9. These somewhat complicated figures may be summarised in the following form :—

Effect of Separation upon Burma's Finances.

Additional Revenue.	*Lakhs.*		*Additional Expenditure.*	*Lakhs.*
Amount now collected in Burma.	657		Cost of collection in Burma ...	20
Deduct kerosene and motor spirit excise except on Burmese consumption (25).	190		New (14) and transferred (166) expenditure including political departments.	180
			Debt and Army Contribution	500
Deduct protectionist duties to be abolished.	25		Total	700
	442			
Add export duty on rice to India.	60			
Add duty on Imports from India.	116			
		618		
Income Tax		185		
Salt		35		
Railways...		25		
Miscellaneous		10	Surplus available for Burma...	173
Total		873	Total	873

* Here again the rate has been reduced from 3 annas to 2$\frac{1}{2}$ annas.

Effect upon India's Finances.

Gains.	*Lakhs.*	*Losses.*	*Lakhs.*
Existing excise on motor spirit and kerosene.	190	Customs now collected in Burma.	657
Additional rate on kerosene to bring to 2½ annas basis.	111	Other taxes	255
Duties on other imports from Burma.	25		912
		Less expenditure transferred to Burma.	686
			226
		Surplus available for India ...	100
Total	326	Total	326

The figures are mainly based on the Finance and Revenue Accounts relating to the year 1928–29, which is the latest available return which gives figures in detail for particular provinces. This should be borne in mind in comparing them with the figure for India as a whole in the main report which relates to 1929–30. But the variations from year to year are small and, in any case, as the table is intended to be used to illustrate general principles, variations of a few lakhs are not significant.

Recent Budget changes.

10. It should, however, be noted that the table in the preceding paragraph strictly applies to the situation prior to the current budget which has somewhat altered the situation disclosed by these figures. In the first place, the Legislative Assembly has reduced the export duty on rice at a loss to the revenue of 30 lakhs. This has been replaced by other taxation. But while the rice duty was collected in Burma, it is not certain that the alternative taxation will be collected to the same extent in that country. To the extent that this duty has not been replaced by one collected in Burma, the anticipated gain to Burma from taking over her own customs has been reduced, though, of course, it would be open to Burma to restore the duty after separation. Secondly, the Government has already increased the excise on kerosene, though not yet to a level equal to that of the import duty. The present increase is anticipated to yield 50 lakhs. At present this is being collected in Burma but would presumably be transferred to India after separation. To the extent of these 50 lakhs, the Government has already brought into account and used for the purpose of balancing its budget a sum which, for the purpose of this note, I have called new taxation. These two changes slightly modify the margin which is shown in the table.

Conclusions.

11. Taking the table as it stands, however, it shows that on the assumptions made, the revenue situation of the two countries together would be improved by additional taxation amounting—after the remission by Burma of the protective duties—to about 287 lakhs, against which there would be entirely new expenditure of 14 lakhs, the balance being available for division between the two countries in proportions which are primarily governed by the amount charged to Burma in respect of debt and defence. If this allotment were 5 crores, as indicated in the table, Burma would receive 1¾ crores of this margin, and India 1 crore. If Burma secured more favourable terms in respect of these items and was charged only 3 crores she would gain from separation 3¾ crores while India would lose 1 crore. On the other hand, if she were charged 6¾ crores, her net gain would be nil while India would gain the whole of the 2¾ crores. It is also evident that if for the purpose of maintaining trade, the full additional duties were not levied, the net increase of revenue to be divided between the two countries would be proportionately diminished.

If the status quo were rigidly adhered to as regards customs duties (that is to say if free trade were maintained between the two countries and no additional revenue raised), and if Burma's debt and defence contribution was fixed on such a

basis that there was no gain or loss to either side (i.e. at about the net figure which she now contributes to the Centre). it might still be financially in Burma's interest to separate on the ground that further expansion of customs duties would all accrue to her and be available for her own development.

But Burma's needs are great and it would clearly help the initiating of a new regime if some additional funds were available. If no additional tax revenue results from the separation, these additional resources would only be forthcoming under a settlement which would impose a net loss on India ; and in view of the state of India's finances, a solution which gave Burma the continued advantage of a free entry into the Indian market and at the same time fixed her debt and defence contributions at a figure which gave to India less than her present net contribution to the Central Budget, is likely to be contested. I have, therefore, assumed that some additional taxation will in fact be involved and in the body of my report have used figures for India excluding Burma which show a net gain to the former of the one crore indicated above. If separation is carried out on a basis less favourable to India, a corresponding deduction must be made from the sum which I have indicated as being available for the provinces.

PART IX.—THE FUTURE OF THE SERVICES.

327. In Part IV of our first volume we have described the important part which the Civil Service plays in the government of India. Of no country can it be said more truly than of India that "government is administration," and the success of the constitutional changes which we have proposed will depend, in no small degree, upon the maintenance of the high standards which the services have established. We have now to consider how best this may be secured.

The first question that arises is—how far should the new provincial Governments depend for their directing and controlling staff upon officers under their orders who have been recruited on an All-India basis and how far upon officers recruited provincially. On the Lee Commission's recommendation All-India recruitment for the services employed in the transferred departments of Government ended in 1924, with one significant exception. In view of the obligation of the Government of India to maintain a medical reserve for war and to secure European medical treatment for the European personnel and their families, each province is required to employ a certain number of officers of the Indian Medical Service.* Apart from this the Indian Civil Service, the Indian Police Service, the Irrigation Branch of the Indian Service of Engineers and, in all provinces but two, the Indian Forest Service, are the only services recruited by the Secretary of State on an All-India basis. Of these the Indian Civil Service and the Indian Police Service—the "Security Services"—stand in a class by themselves. The organisation and direction of the general administrative system, whether at headquarters or in the districts, rests upon the first; and upon it and the Indian Police Service essentially depends the maintenance of law and order. The existence of a highly efficient administrative machine, and the resource and the energy which these two services brought to bear upon the difficult problems to which the Reforms gave rise, have contributed greatly to the large measure of success which has attended the working of the reformed Governments in the last ten years. The advance which we have recommended will call for the same qualities in at least as high a degree. Even when the difficulties incidental to the change itself have been overcome the administrative problems of the provinces will require services of the highest standard obtainable.

* The power to make this requirement rests upon Rule 12 of the Devolution Rules which runs as follows :—"A local Government shall employ such number of Indian Medical Service officers in such appointments and on such terms and conditions as may be prescribed by the Secretary of State in Council."

Views as to Continuance of All-India Recruitment for the Security Services.

328. We summarise below the evidence we have received on the question of the future recruitment of the Security Services. The Governor in Council in Madras and one Member of Council in the Central Provinces do not desire to preserve any further All-India recruitment and would substitute for it provincial recruitment. With these exceptions the Governors in Council recommend the continuance of recruitment on an All-India basis. Those who take this view, with one exception, recommend that the Secretary of State should, as hitherto, be the appointing authority. And this opinion is not limited to the reserved side of the Government. In two provinces only do Ministers oppose this view. The Provincial Committees in Assam, Bengal, Bihar and Orissa,* and the Punjab (with one dissentient), all favour the continuance of All-India recruitment. The Burma, Madras and United Provinces Committees are opposed to it, but the two last are not unanimous on the point. The majority of the Indian Central Committee recommends that, except in Madras and Bombay, the new provincial Governments should be free to decide what proportion of the existing All-India Services should be provincialised. In Bombay it would provincialise all of them at once; in Madras it would retain the Indian Civil Service and the Police on an All-India basis as at present. Two members would retain the present system of recruitment in all the provinces.

The weight of this evidence is strongly on the side of the preservation of All-India recruitment by the Secretary of State and we are in full agreement with this view. We readily recognise the high standing of the provincial services; but an All-India Service has a much wider field of choice, and the status and tradition attaching to it secure for it recruits of a class for which a provincial service has no attractions. Moreover under our proposals the responsibility for the government of a province in the event of a breakdown of the normal constitution will rest upon the Governor and ultimately upon the Governor-General. The Lee Commission had to deal with a similar question — the means by which the responsibility of the Government of India for maintaining a medical reserve for war could be discharged — and the solution adopted was the employment in the provinces of a certain number of officers of a service recruited on an All-India basis.

There is a third reason of great importance why All-India recruitment should be retained for these services. It is far from our intention to recommend a separate cadre of officers for the departments of the Central Government, for we believe

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* The Bihar and Orissa Committee recommends that the Governor-General should be the appointing authority.

that the present system whereby the central secretariat is drawn from members of the services in the provinces is most valuable. A proper circulation between the provinces and the Centre is essential if contact is to be maintained over so vast an area. Furthermore, it is desirable that the minor administrations and excluded areas should be served by officers of qualifications similar to those of the higher services who are working under provincial Governments. It would be clearly undesirable to have to recruit a small and select body for such special areas. It is on every ground far better to draw officers for them from a larger pool.

Our Recommendation as to Security Services.

329. We recommend therefore that the security services should continue to be recruited upon an All-India basis by the Secretary of State who should have power under a Rule similar to Rule 12 of the Devolution Rules (see footnote to paragraph 327), to require provincial Governments to employ these services in such numbers and in such appointments as he thinks necessary. His decision would of course be arrived at only after discussion with the provincial Governments and the Government of India, and would be subject to reconsideration from time to time. The quota of All-India officers would vary according to the circumstances of each province and might eventually disappear. But we do not think that the present numbers should be changed materially for some time to come, and the rights and prospects of officers now in the services should be carefully safeguarded.

Irrigation and Forest Services.

330. So far as the two security services are concerned, the conclusion we have reached is arrived at without hesitation. A more doubtful question arises in connection with the Irrigation Department and the Forest Department. Should recruitment on an All-India basis be continued in their case also? In two provinces recruitment for the Forest Department has already been completely provincialised in accordance with the recommendations of the Lee Commission, though of course existing All-India officers have been retained and are still in a controlling position. Nevertheless, the difference in this respect between one province and another raises a complication. Some witnesses, such as the engineer in charge of the Sukkur Barrage, expressed the view that irrigation was so vital a matter that the department dealing with it should continue to be reserved; other evidence assumed that, if dyarchy ended, All-India recruitment would go with it. We think that the question in relation to Irrigation and Forests is of such importance that the authorities in India should have an opportunity of considering it further in the light of the general scheme of constitutional reform which we are putting forward, and we therefore do not propose on this head to do more than summarise

the evidence we have received, and to indicate some of the considerations that must be weighed in coming to a final decision.

None of the provincial Governments recommends the continuance of All-India recruitment for the Irrigation Branch of the Indian Service of Engineers or for the Indian Forest Service. There is also some evidence both from official and non-official witnesses that political necessity requires that these services should be provincially recruited. But some of the heads of these departments take another view. We ourselves see strong advantages in the preservation of All-India recruitment, particularly for the Irrigation Service. An irrigation work like the Sukkur Barrage is to the vast territory which it supplies with water what the Assouan Dam is to Egypt; it is the basis of its whole economic being. The success of such a project depends not only on the efficiency of its construction but on the supervision of its subsequent administration: and the service which performs this administration is in every sense a vital security service. The work which the Forest Department performs may be less spectacular in its immediate results, but in many parts of India it is scarcely less important than irrigation. It is a matter of great moment both for the revenues and for the contentment of India that this asset should be prudently developed and skilfully exploited. We very much doubt whether India is yet in a position to find all the personnel which it requires to maintain the administration of these two departments, both of which demand not only the highest technical knowledge but the most resolute administrative zeal. If European recruitment in these two branches were to cease to-day or were reduced to the occasional enlistment of European experts on short time contracts—as we feel would be the case if these services were now entirely provincialised in all provinces—a risk would be taken which would be, on a purely administrative view, very hard to justify. Our opinion in this respect is reinforced by the view taken by the Linlithgow Commission on the need of recruiting over a wide field in the Agricultural Services, as expressed in the following quotation:—

> ". . . we wish to record our considered opinion that the restriction of recruitment to a province or even to India cannot fail to tell seriously on efficiency at a time when the general awakening of interest in agricultural progress, of which the appointment of a Royal Commission on Agriculture in India is only one of many indications, makes efficiency specially desirable. We are convinced that, from the point of view of wider outlook and variety of experience, officers recruited abroad are in a position to make a valuable contribution to the development of Indian agriculture." *

Undue weight has been placed upon the argument that Ministers may be hampered in carrying out their responsibilities by the limitations upon their control over members of All-India Services. The Lee Commission was informed by

* Report of Royal Commission on Agriculture in India, para. 568.

Ministers that, with negligible exceptions, All-India officers serving under them had given most loyal support to them in carrying out their policies, and all the evidence before us is to the same effect. Moreover if, as we recommend later in this chapter, provincial public service commissions are set up, to which members of the provincial services will have rights of appeal against disciplinary action, the control of Ministers over them will be limited and, by common consent, rightly limited. But it has never been suggested that the limitation will hamper Ministers in carrying out their policies.

Rate of Indianisation in the Security Services.

331. If the Indian Civil Service and the Indian Police Service are to remain on an All-India basis, the proportions in which Indians and Europeans are to be recruited for them has to be decided. In 1924 the Lee Commission, which, besides its Chairman, Lord Lee, was made up of four Indians and four Europeans, unanimously decided upon the rates of recruitment which we have set out in Part IV, Chapter 1, of our first volume; and its members contemplated that these rates would be maintained up to 1939 for the Indian Civil Service and up to 1949 for the Indian Police Service. It is open to us to vary their recommendations in this regard; but we are not prepared to depart from this time table.

The six years that have elapsed since the Lee Commission reported have not lessened the need for the British element in the security services. Communal tension has increased, and it has never been seriously denied that the impartiality of the British officer as between conflicting communal interests—an impartiality which he owes to his origin—gives him a special value in administration. It is not that his Indian colleague cannot free himself from communal influences—we have strong evidence to the contrary from the administrative heads of services—but the suspicion that he is partial makes it difficult for him to do justice either to himself or to the needs of the situation.

But apart from this the British officer can for some time longer render a valuable service to political progress in India. Democracy in our own country is not so much a code of principles as a way of living with one's fellow citizens, whether they be the majority or the minority in the State. It cannot be learned from textbooks, and it is inevitable that political theory and practice in India should rest more on the letter than on the spirit of British political institutions. If the best type of British recruit can be obtained as in the past, Indian political life must gain from the advice and service of men in whom the practice of British democracy is instinctive.

Safeguards for Position of Existing All-India Officers.

332. We have recommended the continuance of recruitment on an All-India basis for the two security services. But we assume that, following the Lee Commission's recommendation in similar circumstances, no change will be made in the position of existing members of any All-India services for which no further recruitment will be made, that they will retain all the rights of officers of an All-India service, and will receive any general concessions in pay, pension, allowances, etc., which may be sanctioned for services which are retained on an All-India basis.

It is essential for the success of the constitutional advances which we have recommended that the existing members of the All-India services should remain in the service, and that their rights and privileges should be safeguarded. On this point the evidence is practically unanimous. Many of them at present could retire on proportionate pension and others will be able to do so if the department of provincial administration in which they are employed is transferred to Ministers,* as it would be under our proposals. We see no reason why a career in the services should not under the new constitution provide ample interest and opportunity for men of brains and character. But we cannot ensure this; and it would be idle to shut our eyes to the lesson of the years succeeding the Reforms of 1920, when uncertainty about the future of the services led to the retirement of a large number of valuable officers. At the present juncture India cannot afford to lose experienced officials, and measures must be effectively taken to discourage their premature withdrawal.

Under the present rules, whatever rights an officer has to retire prematurely may lapse twelve months after action has been taken upon our Report. If no extension is given, we are apprehensive that a considerable number of able and experienced officers will retire while they can, rather than take the risk of continuing their service under the new conditions without any right to pension until they have completed the full term of service. This would be disastrous not only to administration at the moment but to recruitment for the future; for it is certain that premature retirements would seriously affect the willingness of young men to join the services.

We recommend, therefore, that retirement on proportionate pension should remain open without limit of time to any officer who might under the present rules have so retired upon the coming into force of the constitutional changes which we have proposed. If this is done, we believe that the majority of officers, provided their service rights are secured, will be prepared to remain in the service, in the assurance that if

* See Vol. I, Pt. IV, Ch. 1, para. 300.

conditions became at any time so distasteful that loyal service was impossible for them, they could then retire without sacrifice of the pension earned by their past service.

But something more than the extension of the right to retire prematurely will be required if officers now in the All-India Services are to be reassured. At present the Act itself and the statutory rules made under it secure their position in various ways. The safeguards in the Act itself should be maintained. The statutory rules are made under section 96B (2) and any change in them can only take place with the consent of a majority of the Council of India. In our proposals for the future of the Council,* we have recommended that its powers in this regard should be maintained; changes in the statutory rules affecting the services will, therefore, as hitherto, require the concurrence of a body which will contain representatives of the services. Our whole purpose in this connection is to leave unchanged the rights and privileges of present members of the services and to keep the control of these rights and privileges in the hands of a body which enjoys their confidence.

It has been represented to us that a transfer from the Secretary of State in Council of the control over the finances of India might imperil the security of officers' pensions and the provident and family pension funds which have been built up by their own contributions. These are, of course, and must continue to be, a liability on Indian revenues, just as current salaries are: pensions are really in the nature of deferred pay. The Lee Commission, in dealing with a similar representation, recorded its view that "if any statutory change is made hereafter, involving the transfer of the financial control in this regard now exercised by the Secretary of State in Council, adequate provision would at the same time be made for safeguarding service pensions."† We are not in fact proposing any change which would bring these pensions into jeopardy, but we wish expressly to adopt and confirm this recommendation for the future.

Medical Treatment for European Officers.

333. European officers of the services lay great stress on the continued provision for themselves and their families of medical treatment by European doctors. We regard this as essential; no change should be made in the present Devolution Rule 12 which gives the Secretary of State in Council power to prescribe the number of Indian Medical Service officers to be employed in the provinces, and the appointments and conditions upon which they shall be employed; and no effort should be spared to secure an adequate number of European recruits for the Indian Medical Service to implement this fundamental obligation.

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* See below, Part XI. † Lee Commission Report, para. 83.

Recruitment for All-India Services.

334. It remains for us to consider the conditions upon which future recruits for the All-India services are to be employed. It is certain that European recruits of the capacity and character required can only be obtained on terms which give them, subject to the exception mentioned below, the same rights, privileges and safeguards as we have recommended for the present members of the services. The exception is the right of premature retirement. We presume that as soon as possible after the new constitution is settled a full explanation of the changes involved, and their implications for the services, will be made public, and that every possible step will be taken to ensure that prospective candidates are fully informed of the conditions under which they will serve. If this is done, we think that to grant recruits the right of premature retirement on pension before any case for it has been established would throw an unjustifiable burden upon Indian revenues. But we do not claim to be able to forecast the future of the services and to guarantee that conditions may not arise which able and energetic officers may find so distasteful as to make their continuance in the service impossible; and we put on record our strong view that in that event there would rest upon the Secretary of State for India a special obligation to see that officers who may join the All-India Services hereafter are treated in the spirit of the recommendation of the Joint Select Committee in regard to the services, which we have set out in paragraph 293 of Volume I. If our recommendations are accepted, he will have power to take the necessary measures.

Additional Pensions for Governors.

335. Before leaving this part of our enquiry, we desire to revive the proposal made by a majority of the Lee Commission that additional pensions should be given to Governors of provinces who belong to the services.* The pension of a member of the Indian Civil Service, other than a High Court Judge, is £1,000 a year after 25 years' service. No service beyond that period, in however responsible a position it may be rendered, entitles an officer to any addition. The Lee Commission took the view that the reformed system of government had invested the Governors with new and far reaching responsibilities, and that it was but just and equitable that this fact should be recognised. We strongly endorse this opinion and recommend that special additions to the standard pensions should be given to officers who have borne the heavy strain of Governorship.

There is another case which requires special consideration. If a member of the Civil Service is selected by a Governor to be a member of his Cabinet, it will always be difficult for him, after holding this high position, to go back into the regular line of his service, e.g., as a Divisional Commissioner, and he may have

* Lee Commission Report, para. 68.

to retire altogether from the service earlier than he would have done if he had never discharged ministerial duties. We think that in view of this, and in order to secure the fullest possible freedom of choice for the Governor, it would be right to provide some increment to the pension to which the officer would otherwise be entitled.

The Value of Public Service Commissions.

336. So far we have been dealing with the All-India Services, but they form a small part only of the general body of Government servants* and we have still to consider the bearing of the constitutional changes we have recommended upon the position of the important provincial services and the subordinate services below them. The evidence we have had on the question is almost unanimous in recommending the setting up of Public Service Commissions in the provinces. The purpose of such bodies is to maintain adequate standards of recruitment and to advise Government in regard to the action to be taken on appeals from officers against serious disciplinary orders passed upon them. All the provincial Governments recommend their establishment, and the Provincial Committees take the same view, though two of them refer only to the Commission's recruiting functions. We have no doubt that the services would welcome them for the security they would afford against improper influence and interference.

The Lee Commission set out the case for Public Service Commissions in the passage which follows :—

> "Wherever democratic institutions exist, experience has shown that to secure an efficient Civil Service it is essential to protect it so far as possible from political or personal influences and to give it that position of stability and security which is vital to its successful working as the impartial and efficient instrument by which Governments, of whatever political complexion, may give effect to their policies. In countries where this principle has been neglected, and where the 'spoils system' has taken its place, an inefficient and disorganised Civil Service has been the inevitable result and corruption has been rampant. In America a Civil Service Commission has been constituted to control recruitment of the Services, but, for the purposes of India, it is from the Dominions of the British Empire that more relevant and useful lessons can perhaps be drawn. Canada, Australia and South Africa now possess Public or Civil Services Acts regulating the position and control of the Public Services, and a common feature of them all is the constitution of a Public Service Commission, to which the duty of administering the Acts is entrusted. It was this need which the framers of the Government of India Act had in mind when they made provision in section 96C for the establishment of a Public Service Commission to discharge 'in regard to recruitment and control of the Public Services in India such functions as may be assigned thereto by rules made by the Secretary of State in Council.'"†

Constitution and Functions of Central Public Service Commission.

337. On the recommendation of the Lee Commission a Central Public Service Commission was set up in 1926 for the All-India

* See para. 299 of Vol. 1.

† Lee Commission Report, para. 24.

and the higher central services. Its constitution and functions are laid down in statutory rules.

In accordance with section 96C of the Government of India Act, its members are appointed by the Secretary of State in Council for a term of five years and cannot be removed before the expiry of their term except by his order. The Chairman is not eligible on vacating his office to hold any other post under the Crown in India. Two of the five members must have been in the service of the Crown in India for at least ten years.

The Commission advises the Government of India on all recruitment questions; it conducts all competitive examinations held in India for the services concerned and arranges the candidates in order of merit. When recruitment is made by selection it considers the applications, interviews the candidates and submits to Government a list of them in order of preference. When promotions are made from a provincial to an All-India service it considers the claims of the candidates nominated and advises the Governor-General in Council whether their qualifications are sufficient and whether they have the character and ability required for the service to which it is proposed to appoint them; and finally it arranges them in order of preference.

The functions of the Commission extend primarily to the All-India services and the higher central services, but the statutory rules provide that it may recruit for provincial services if the provincial Governments wish it to do so. Provincial Governments have not, however, made use of the Commission for provincial recruitment.

Members of the All-India services have certain statutory rights of appeal to the Governor-General in Council and to the Secretary of State in Council, e.g., they may appeal against an order of the provincial Government involving reduction to a lower post, the withholding of promotion, or suspension from office. Before the Governor-General in Council considers any such appeal he must consult the Public Service Commission in regard to the order to be passed on it. In the same way, before he transmits appeals to the Secretary of State, he must, unless he has had it at an earlier stage, take the opinion of the Commission.

Certain conventions have been established which add to the weight of the Commission's findings. We are informed that in no single instance has the Government of India acted contrary to the advice of the Commission in making appointments. It may, however, require the Commission to select candidates with particular qualifications, or from a particular community. In regard to the Commission's quasi-judicial consideration of appeals, it has been established that, though the advice of the Commission is not formally binding on the Government of India, it shall be accepted save in exceptional circumstances.

Public Service Commissions for the Provinces.

338. The Lee Commission refrained from recommending the extension of the Central Public Service Commission's control to

the provincial services, for it recognised that any such proposal would be unacceptable to the provinces. But it was concerned for the security of the provincial services and recommended that the provinces themselves should pass Public Service Acts to regulate recruitment and reduce the risk of political interference. The only province which has legislated is Madras, where a Public Service Commission Act was passed in 1929.

This Act is framed on the lines of the statutory rules for the Central Commission. Members are appointed, and may be removed from office, by the Governor in Council. An order of removal requires the personal concurrence of the Governor. A member on appointment is required to give an undertaking that he will not during or after his service on the Commission accept any other office under the Crown in India except an appointment on the Central Public Service Commission, or the office of Chairman of the Madras Commission itself. The functions of the Commission do not of course extend to the members of the All-India Services employed in the Madras Presidency, who are still the concern of the Central Commission. The Madras Commission is concerned with the provincial and subordinate services and in regard to their recruitment and discipline its functions are similar to those of the Central Commission in relation to the All-India services. It is specifically laid down that the Commission shall observe any rules made by the Madras Government regarding the constitution of, or recruitment to, any provincial or subordinate service.

Our Proposals.

339. We have no doubt of the necessity for the establishment of provincial Public Service Commissions if an efficient and loyal public service is to be maintained. The existing constitutional structure secures to the Governor wide powers to discharge the responsibility placed upon him by his Instrument of Instructions for safeguarding the interests of the services. Even so the Lee Commission thought it necessary to recommend that further protection should be given by means of Public Service Acts. We take the same view. The establishment of Public Service Commissions in the provinces will have advantages from the point of view of Ministers themselves. They should be freed from the technical work of recruitment, which is no part of a Minister's duties, and even more important, they should not be exposed to the charge, however ill founded, of using their position to promote family or communal interests at the expense of the efficiency, or the just administration, of the services. We doubt if Indian Ministers always realise how seldom a Minister in England has anything to do with the selection or promotion of the personnel in his department. We are sure that they will welcome the removal from them of responsibility for appointments and for the examination of

service appeals; for it will relieve them from embarrassing demands from their supporters and will set them free to devote themselves to more appropriate and more important duties.

The protection of the services from political influences is an essential condition of the constitutional advances we recommend. With that object, provision should be made in the Government of India Act that, if any provincial council does not pass within a prescribed time an act for the establishment of a Public Service Commission, with a constitution and functions approved by the Secretary of State in Council, the provincial Government shall be required (1) to conduct its recruitment through the agency of the Central Public Service Commission; (2) to submit appeals from members of the provincial and subordinate services to the same body; and (3) to accept and apply the same conventions in regard to the Commission's recommendations as are accepted by the Government of India.

If the provincial Public Service Commissions are to serve effectively the purpose for which we desire to see them established, their members must be completely removed from political influence. In order to secure this no further employment under the Crown in India should be open to them except higher office in the Commission itself or an appointment on the Central Commission. In the second place, they must be appointed by an authority independent of all party interests and they should not be removable from office except by the same authority. We think it essential therefore that the appointing authority should be not the Government but the Governor, and that in making the appointment he should have power to act otherwise than in accordance with the advice of his Ministers. Lastly, the provincial Governments should undertake to observe the same conventions in relation to the findings of the Commission as are observed by the Government of India in its dealings with the Central Commission. It would be open to the provincial Government to require the Commission to select candidates with particular qualifications or from a particular community: but the Commission should be strong enough and independent enough to secure that the standards of qualification for the public service are not lowered thereby.

We recognise that the cost of Public Service Commissions may be a not inconsiderable burden upon the revenues of the lesser provinces, and that it may be difficult to find sufficient work in a small province to occupy the time of the Commission. We should see no objection to two or more provinces using a joint Public Service Commission, provided that the obligation to make use of it were established by statute in each province. It would always be open of course to a province, under the statutory provision which we have recommended, to use the Central Public Service Commission until circumstances justified the setting up of a provincial Commission.

Recruitment of Anglo-Indians.

340. We have one observation to make in regard to recruitment by the Central Government. In our first volume we have described the peculiar position of the Anglo-Indian community and its economic difficulties.* Its dependence upon employment under the Central Government is due not only to its aptitude and capacity but to the policy of Government in the past. We suggest, therefore, that some special consideration should be shown to the community in recruiting for the central services with which it has a traditional connexion.

* Vol. I, Pt. I, Ch. 5.

PART X.—THE HIGH COURTS.

The Present Contrast in Administrative Arrangements.

341. We have already pointed out (Volume 1, Part IV, Chapter 3, paragraph 329) that the position of the High Court at Calcutta differs from that of other High Courts. Generally speaking, the same administrative functions are, in all provinces, entrusted to the High Court and to the Executive respectively, whether by Statute or by Letters Patent. A difference arises, however, in regard to the selection of the particular executive authority which is to exercise the functions assigned to the Executive. In Bengal certain important functions involving control over the High Court, which have in other provinces been committed to the Governor in Council, have been entrusted to the Governor-General in Council. In other words, the High Court of Calcutta is under the Government of India for some administrative purposes. All the other High Courts are, for administrative purposes, under their respective provincial Governments.

Uniformity of Treatment Desirable.

342. This disparity of treatment is due to historic causes and, apart from these, the only reason that could be given for treating the High Court at Calcutta differently is that it exercises jurisdiction over Assam as well as Bengal, and, therefore, could not, for administrative purposes, be put in relation to a single provincial Government. But that is no reason why the anomaly should not be removed by putting all the other High Courts (including the Chief Court of Oudh and the Courts of the Judicial Commissioners of the Central Provinces and of Sind) under the administrative control of the Central Government. There is reason to believe that this would carry out the real intention of the Feetham Committee which advised on the division of functions between Centre and province in 1919, and that the present position was brought about by a misconception in drafting. All High Courts would thus be in the same position. Representations were made to the Commission from several sources in favour of this change, and we think it should be made. It is necessary, however, to go into the matter more closely, for it would not be satisfactory simply to reproduce, in the case of the other High Courts, the present position in Bengal. A further change will be found to be needed for all High Courts alike, and this we must proceed to explain.

343. Before going further, however, we had better make it clear that the control over High Courts, of which we have spoken, has nothing to do with their judicial functions. Permanent judges are appointed by His Majesty; and "additional" judges, when such are needed owing to arrears of work, are appointed by the Governor-General in Council for a period not exceeding two years. Judicial salaries (which are non-votable) at present

come in all cases from provincial funds. Assam makes a contribution in respect of the cost of the High Court in Bengal. There is, therefore, no difference between one province and another down to this point. Temporary vacancies, however, at Calcutta are filled by the Central Government; elsewhere by the provincial Government.

Nature of Administrative Control over High Courts.

344. But apart from judicial work, the organisation of every High Court involves matters of administration for which some executive authority is naturally and properly responsible. You cannot have the administration connected with a High Court carried on solely by High Court Judges, any more than you can have the administration connected with a Statutory Commission carried on solely by members of the Commission. There must be, in both cases, under various heads, provision made for staff and accommodation and other matters, and the difference between the Calcutta High Court and the rest consists in this that, insofar as these matters are questions to be decided by executive authority, the authority in the one case is the Government of India, and the authority in the remaining cases is the Government of the province. But the further point arises that, while the executive authority that gives the decision is different, the expenses involved in carrying out the decision are in all cases charged on provincial funds and come up to be voted by the provincial council. Hence, in the case of Calcutta, the curious result emerges that a department in Delhi orders certain things to be done and a legislature in Calcutta is called upon to pay for them, or rather to vote that they shall be paid out of provincial funds. The Chief Justice of Bengal (Sir George Rankin) put the point thus in his evidence before us when he said :—

> "The High Court of Bombay, for example, not only has its charges borne upon provincial funds, but the Government of Bombay has the administrative control of the High Court of Bombay. It both pays the piper and calls the tune. In Calcutta, the administrative control of the High Court is vested in the Government of India, but the Government of Bengal has to find the money. We have a triangular system by which, to some extent, the Government of India administers and the Government of Bengal pays."

The Argument for Central Control.

345. While, therefore, we propose that all High Courts alike should, for administrative purposes, be put under the Government of India, we do not mean that the situation now existing in Calcutta should be perpetuated and extended. We recommend that the charges of all High Courts should be put upon central revenues, and that the administrative control of all High Courts should be exercised by the Government of India and not by the provincial Governments. Let us give an illustration of the difference which this would make. Under the present system, if the Chief Justice of the Calcutta High Court writes to the Government of India to say that he needs the services of an extra

Assistant Registrar, the Government of India, if it sees no valid objection, forwards the application to the Government of Bengal for remarks. The Government of Bengal has no responsibility for seeing that the High Court is properly administered or that its staff is not overworked; but, on the other hand, if the application is recommended by the Government of Bengal to be granted, it is the Government of Bengal that will have to find the money. It seems to us that such a system cannot be regarded as satisfactory, and we were informed that the objection to it was felt both by the judiciary and by the executive concerned.

High Court Expenses to be Borne on Central Funds.

346. The solution which we put forward is that the administrative expenses of all High Courts (including the Chief Court of Oudh and the Courts of the Judicial Commissioners of the Central Provinces and Sind) should be borne on central funds. It may be thought that the question whether judicial salaries should be transferred is of less practical importance, since these salaries are in any case non-votable, and thus the matter, however decided, is merely one for financial adjustment. But we consider that the proper course is to place these salaries also upon central funds. Additional judges, as we have already pointed out, are in all cases appointed by the Central Government and we think that the appointment of temporary judges should be made by the Governor-General, but only after consulting the provincial Governor.

Consequential Adjustments.

347. The course we have recommended seems to us the best way of getting rid of the anomaly to which we have referred. If the readjustment of provincial boundaries results in the carving out of additional provinces, other cases may arise in which one High Court ought to serve more than one provincial area and our solution prevents fresh difficulty arising from this cause. It involves no denial of the principles of provincial self-government, for, of course, the High Court, whether in Calcutta or elsewhere, in carrying on its judicial work is entirely independent of the Executive, whether provincial or central, and is equally outside the range of criticism by the legislatures. We by no means intend that the functions of the Executive, in connection with the administration of the subordinate judiciary of the province, should be taken from it or transferred to the Central Government, and to this point we shall refer later. First, however, the objection has to be met that, since "judicial stamps" is a source of provincial revenue, the fund fed from this source should be that out of which the administrative and other expenses of the High Court should be paid. It would not be a satisfactory arrangement to leave central funds to pay for the High Courts, while provincial funds get the benefit of the revenue which they produce. This point should be met, we consider, by making High Court fees a source of central

revenue. Much the more important part of the proceeds of judicial stamps arises in connection with Courts of subordinate jurisdiction, and this head of revenue would remain provincial. So the adjustment will not seriously affect the working out of Mr. Layton's general financial scheme, and we are informed that there ought to be no difficulty in making the distinction in practice.

Relations between High Court and Provincial Executive.

348. The other objection which is felt in some quarters to the adoption of the suggestion that the High Courts should be centralised is that this arrangement might remove the High Court judges too far from the provincial Government, and that there are good practical reasons why a closer connection should be maintained. Judges of the High Court, for example, have important work to do in connection with the provincial Executive; they are not infrequently consulted on the drafting of Bills or on projects of provincial legislation. We are not offering any criticism of this practice, provided that it does not interfere with the due discharge of a High Court judge's primary work, but we do not see any reason for supposing that this assistance, which may often have the advantage of keeping the judge in touch with the conditions of his province as well as providing the provincial Executive with skilled and impartial advice, would cease to be forthcoming. A further point which arises is whether the work done by the High Court in connection with the appointment, promotion or dismissal of the subordinate judiciary and its general supervision over the Courts of the province can be equally well discharged, if the present relation between a High Court and the Government of its province is varied in the way we suggest. The duties to which we have just referred do not take quite the same form in every province. In Madras and Burma the High Court actually appoints some of the subordinate judiciary; in other provinces it takes part in advising the provincial Executive on such matters, or in reporting to them on the subject. In all provinces, it supervises the lower courts. Whatever the exact arrangement may be, it is no doubt felt to be convenient for the executive authority charged with the administration of justice in the province to be in close relation with High Court judges. Local conditions have to be taken into account, but here again the changes we are recommending should not affect the easy working of the system we have just described. It does not do so, we believe, under existing conditions in Bengal.

Justification for Proposed Changes.

349. We consider, therefore, in spite of these and other objections which may be raised, that the changes we have proposed should now be made. There is no possible justification for keeping up two systems, side by side, in British India in such

a matter. The importance of maintaining the complete independence of the High Court Bench, not only in respect of private litigation but in connection with controversies in which the local administration may be involved, is overwhelming. Some adjustments of detail are involved; for instance, High Courts should communicate with the Central Government direct, without the necessity of going through the channel of a department in the provincial Executive. This change will simplify and accelerate business, and remove any risk of local political influence, or obstruction, without affecting the object aimed at by our proposal. It may be said that the provincial Government, which is on the spot, is in a better position to decide whether the requirements put forward by a High Court are justified and that, if these things are left to the Government of India to determine, the interests of economy may suffer. But since those who authorise the expenditure will be responsible for finding the money, a check upon extravagance is provided, and there seems no reason why the Government of India should not, in this case as in other cases in which it has to consider requests for additional outlay on matters which it controls in the provinces, be represented by a local agency or provide itself with authoritative local advice.

PART XI.—THE RELATIONS BETWEEN THE HOME AND THE INDIAN GOVERNMENTS.

The Secretary of State and the Provinces.

350. The Secretary of State for India is the agent through whom Parliament maintains its control over the government of India, and keeps itself informed of everything that concerns its responsibility in that regard; and the powers conferred upon him by the Government of India Act determine the limits within which the control of Parliament is, or could be, exercised. The proposals we have made in Part II of this volume for the extension of the field within which responsibility for the government of British India rests upon elected Indian legislatures involve a corresponding restriction of the control of Parliament. We have now to consider what modifications in the statutory powers of the Secretary of State are required to give effect to the changes.

In the Governors' provinces we have proposed that the administration of the whole provincial field should be entrusted to Governments responsible to provincial legislatures. It follows that it should no longer be open to the Secretary of State to issue orders on matters which are of no concern outside the province itself, other than the limited class in regard to which special powers are reserved to the Governor. But he should still be authorised to require the provincial Governments to furnish such information as he thinks necessary. If the constitution broke down in any province, the responsibility for its government would again fall upon Parliament, and it is essential that the Secretary of State should be able to keep himself fully informed of everything that may concern this ultimate responsibility of Parliament.

The Secretary of State and the Centre.

351. The position is different in regard to the Central Government. We have not recommended that the Government of India should at present be responsible to the Indian Legislature. It must, therefore, remain responsible to Parliament; and the Governor-General and the Governor-General in Council must continue to be subject, as at present, to the orders of the Secretary of State.

But the constitutional subordination of the Government of India to the Secretary of State is consistent with a wide delegation of powers to the former. In the region of ordinary administration, where the extent of delegated powers can often be conveniently expressed in terms of expenditure, there is a tendency for the limits of the Government of India's powers to be raised. It ought to be recognised everywhere that nothing is gained by examining in detail in Whitehall proposals which have already been worked out by departments in India which

are in much closer touch with the facts. How far it is possible to give the Government of India a greater freedom of action in matters which cannot be brought under rule depends very largely on the attitude of Parliament. If it is likely to intervene by question or otherwise in any matter, it is incumbent on the Government of India not only to keep the Secretary of State continuously and closely informed about it, but to take his orders before decisions are made; for he may be held responsible for them in Parliament. On the other hand, in so far as Parliament refrains from intervention in a particular field, the scope of possible delegation by the Secretary of State is extended.

Delegation by Convention.

352. The "fiscal convention" of which an account has been given in our first volume† exemplifies delegation of another kind. Here the Secretary of State has bound himself not to interfere if the Government of India and the Assembly are agreed upon a particular policy. We do not suggest any modification of the convention itself. But the assumption underlying such delegation is that the Government of India's approval of the course proposed is arrived at independently of the views of the Assembly; and that it takes account of all Indian interests and not merely those for which a majority of the Assembly speak. But we regard it as inevitable that the Government of India will in the future become more and more responsive to the views of the Legislature. In so far as this is true the Government's approval of policies like that covered by the fiscal convention ceases to be the result of an independent examination; and to this extent its power to resist the view of the Assembly decreases. Moreover, the influence of the Assembly on the Government of India must be greater in any matter upon which the Secretary of State, as representing Parliament, has undertaken not to press his view.

It may be that fields of administration can be mapped out, in which it can be said with confidence that no question will arise upon which His Majesty's Government would feel bound to reserve to itself the final decision, notwithstanding the agreement of the Government of India and the Indian Legislature. We cannot ourselves suggest one and are, therefore, unable to recommend any extension of the principles of the "fiscal convention."

Delegation of power to the Executive in India is necessary in the interests of administration, and would be even if no reforms had been introduced. But delegation by "convention" with the purpose of transferring responsibility in some measure to the Legislature raises different issues. The criterion

† Paras. 268–9.

should be, not whether an authority subordinate to the Secretary of State is in agreement with the Legislature; but whether the interests at stake are of such a character that His Majesty's Government could waive or suspend its constitutional right to make the final decision. On this view the decision whether the will of the Indian Legislature is to prevail is one for the Secretary of State, or if need be for His Majesty's Government, to take, after giving the fullest weight to the views of the Government of India, and before the proposal is put to the Legislature. A convention which sets the Government of India and the Legislature in opposition to the Secretary of State is constitutionally unsound and can only weaken the Government of India in the end.

We think it desirable, in any case, that any extension of the principle of the " fiscal convention " should only be made with the approval by Resolution of both Houses of Parliament.

The Present Council of India.

353. We now pass from the powers of the Secretary of State to consider the future of his Council. There is a strong body of opinion in India which regards the Secretary of State's Council as a reactionary body which has stood in the way of constitutional advance. On the other hand we have had witnesses who recommended its abolition on the ground that it was never consulted by the Secretary of State on any matter of constitutional moment. However that may be, it is certain that since the passing of the Act of 1919 the Secretary of State has been under no obligation to submit for the consideration of his Council, or even for its information, any matter falling outside a limited number of classes, of which expenditure from Indian revenues and the rules governing the conditions of service of civil officials are the chief. We are satisfied that the Council as at present constituted could not, outside this range, oppose effectively any policy that has the approval of the Secretary of State.

354. The Joint Select Committee in recommending the retention of the Secretary of State's Council in 1919 took the view that it would be absolutely necessary, at any rate for some time to come, that the Secretary of State should be advised by persons of Indian experience; " if no such Council existed, the Secretary of State would have to form an informal one if not a formal one." The arguments that weighed with it still hold good. There will rest upon the Secretary of State a very heavy responsibility, for he will still be answerable to Parliament for fundamentally important matters administered by the Government of India. We intend this responsibility to be a real one and in our view it is essential that there should be a body of experts to whom the Secretary of State can have recourse for advice and information.

We recognise, and every Secretary of State would recognise, that his principal adviser is the Government of India. But the

Government of India's despatches, however full they may be, must necessarily assume a knowledge of Indian conditions which a Secretary of State cannot as a rule be expected to possess.

Proposed Changes.

355. The advisory Council which we contemplate need not, we think, be as large as the present Council. Subject to what is said in paragraphs 356 and 357 below it must rest with the Secretary of State to decide at his discretion the matters upon which he will consult it, and this should be made clear in the Statute. We attach great importance to securing that the members appointed from India, whether they are officials or non-officials should have *recent* experience of the country. The Government of India Act permits the appointment of a member who has left India five years before. The practice has been to appoint members within a few months of their leaving India; but the matter should be put beyond question, and we recommend that the interval between leaving India and appointment to the Council should not exceed one year. The tenure of the appointment is five years but the Secretary of State may for reasons of public advantage reappoint for a further term of five years. We recommend that no member appointed on account of his Indian experience should be eligible for re-appointment.

Protection of the Services.

356. The functions of the Council which we contemplate would be essentially advisory. But we have to consider whether there are reasons for retaining for some time longer any of the independent powers which the Council at present exercises.

In one class of question we think it is necessary to maintain its existing powers. Under section 96E of the Act the rules governing the conditions upon which civil officials are employed can only be made with the concurrence of a majority of votes at a meeting of the Council. For reasons which we have explained in Part IX we consider it absolutely essential to reassure officers in regard to their position under the new constitution and this can best be done by maintaining the control of the Council over service conditions. We assume that the Council will in the future as in the past contain distinguished ex-officials whom the general body of officers would regard as adequately representing their interests.

Control over Non-Votable Expenditure.

357. The question remains whether the Council should retain the power to veto expenditure given by section 21 of the Act. Provincial expenditure will be mainly votable and will be subject to the control of the provincial council. It would be contrary to the principles of our proposals for the Secretary of State's Council to exercise any control over such expenditure.

More than half of the expenditure of the Central Government is subject to the vote and scrutiny of the Assembly. We see no advantage in retaining the veto of the Council here†. Non-votable central expenditure consists mainly of debt and defence charges. Much of it is of a routine kind, for example the standing charges for the pay and rations of the forces. But from time to time decisions have to be taken on proposals which involve new expenditure on a large scale. The mechanisation of army transport may be in question, or, even more important from the present point of view, the allocation between the Home and Indian revenues of charges for the training or the pensions of British troops who have served in both countries. Since the Assembly does not bear the responsibility for the adequacy of the defence of India, the control of military finance could not be transferred to it, nor could we recommend placing this financial responsibility upon the Secretary of State alone, for we are satisfied that it would materially weaken his power to safeguard the interests of India against claims by departments of the Home Government. The only course open at present is to preserve the veto of the Secretary of State's Council over expenditure from the revenues of India which is non-votable.

The Future Treatment of Military Expenditure.

358. We have suggested however in Part V that the Imperial Government might undertake the responsibility for the defence of India in return for an annual payment by India fixed for a term of years. If the suggestion is adopted, the need for financial control by the Council so far as military expenditure is concerned will disappear; for India's liability would be discharged by the annual payment and any question of detailed financial control (for example, in the interests of economy) would be one for the Imperial authorities. It might be possible to frame the agreement in such a way that its *principles* would be settled for an indefinite period. In this case the only questions that would arise from time to time would be concerned with adjustments of India's payments in respect of variations in the level of prices and similar matters: and it might be provided that these should be referred to an independent tribunal for settlement. If such an agreement were possible the continuous control of the Secretary of State's Council over military expenditure would not be required and there would be little advantage in retaining it for other non-votable expenditure.

359. It may be however that the agreement entered into by the two Governments in the first instance will be less comprehensive than that suggested above and that its renewal will turn on considerations of policy. In this case it will be necessary to depend once more upon the financial veto of Council to safeguard the interests of India. It is possible too that as

† The Governor-General's power to restore a demand which has been rejected by the Assembly would not, of course, be affected.

in the past the differences between the two Governments may be so great as to delay a settlement unduly. We have considered whether, having regard to the constitutional position of the Secretary of State's Council, provision can be made for the settlement of any such dispute. Where the differences turn solely upon such matters as the cost of the training of a British recruit we see no difficulty; we should not expect a deadlock to occur in such cases, and if it did, it would not be difficult to set up an independent tribunal whose finding could be accepted by both parties. But where questions of high policy enter into the dispute, no "independent" tribunal would be competent to adjudicate. There appears to us to be no alternative in such cases to negotiation between the two Governments themselves.

India Office Staff.

360. We are not in a position to judge how far our recommendations will affect the personnel of the India Office. But if material reductions in the India Office staff should result from them, we think that consideration should be given to the question of granting special compensation to civil servants for whom equivalent employment cannot be provided elsewhere. The ordinary rules regulating the pensions of retrenched civil servants do not seem to us to be appropriate to officers whose careers have been terminated as a result of changes in high policy. This was recognised when special provision was made in the Government of Ireland Act, 1920, for civil servants required to retire prematurely.

THE HIGH COMMISSIONER FOR INDIA.

361. The High Commissioner for India is not subject to the orders of the Secretary of State nor is his establishment part of the India Office. His appointment was created under Section 29A of the Government of India Act. The Order in Council under that section transferred to him agency functions on behalf of the Central and provincial Governments in India, which had previously been discharged by the India Office. An important branch of his duties is the purchase of Government stores. We have explained in our first volume† that the Governments in India, in agreement with their legislatures, are now free by "convention" from the control of the Secretary of State as regards the policy adopted in regard to the purchase of stores, other than military stores. The High Commissioner also recruits such personnel as the provincial Governments draw from this country. In addition, he recruits personnel for the Government of India, but his functions in this regard do not

† Vol. I, para. 269.

extend to the All-India Services, which are recruited by the India Office.

The services of the High Commissioner have often been utilised to represent India on important international conferences. In particular, the present holder of the office, Sir Atul Chatterjee, K.C.I.E., has been leader of the Government group of the Indian delegation to the International Labour Conference; and he represents India on the governing body of the International Labour Organisation. He has also held the distinguished position of President of the Conference.

As we have stated in paragraph 350 above, our proposals for the provinces involve the withdrawal from the Secretary of State of control over the provincial Governments except within a limited field. The High Commissioner therefore, as the agent of those Governments, will no longer be subject even indirectly to decisions by the Secretary of State or the Government of India. In particular, in so far as the provinces are concerned, the arrangement referred to above as regards the determination of policy in the matter of the purchase of stores will no longer be based on a "convention" but will rest upon statutory devolution of authority.

Otherwise the position of the High Commissioner is not affected by our proposals. The extent to which delegation of functions to him is possible and expedient is, of course, an important question; but it is a question of policy and not of constitutional structure and we therefore abstain from making any recommendations.

PART XII.—GENERAL SURVEY AND CONCLUSION.

362. We have now reached the end of our task. By the terms of our Warrant of Appointment, and by the provisions of the section on which it was based, we have been required to survey the working of the existing system of government in British India and to make recommendations for its amendment. In particular, we are directed to report " as to whether and to what extent it is desirable to establish the principle of responsible government, or to extend, modify, or restrict the degree of responsible government " now existing. The previous parts of this volume give our detailed and considered answer to these questions. But we realise how difficult it is, in dealing with matters so various and complicated, to present to those who may not be experts on the subject of the Indian constitution, a clear picture of the main constitutional results which would be achieved if our suggestions were incorporated into the existing system. We propose, therefore, in this final chapter to point out the more important of the changes which we recommend. What follows must not be treated as a summary of this volume, for not only is it impossible in a brief survey to cover all its contents, but a bald statement of conclusions would tend to mislead if it were not accompanied by a consideration of the arguments which have led us to reach them. We shall, therefore, add, at each point which we are going to mention, the necessary references to earlier portions of our Report.

The Scope of our Proposals.

363. British India at present has a constitution, based for the most part on the Government of India Act, which includes (1) a Central Executive—the Governor-General in Council; and a Central Legislature—the Council of State and Legislative Assembly; and (2) nine Provincial Governments, each associated with a Provincial Council, and covering between them 97 per cent. of the whole area. The balance is represented by the North-West Frontier Province and other minor administrations. Our proposals touch every part of this constitution. We will venture to repeat words which we used in the first paragraph of our former volume, when we wrote that we were entering upon our task " upon the basis and assumption that the goal defined by Mr. Montagu represents the accepted policy to be pursued, and that the only proposals worthy to be considered are proposals conceived in the spirit of the announcement of 20th August, 1917, and inspired with the honest purpose of giving to it its due effect." We have kept this principle steadily in mind throughout the whole of our deliberations, and our recommendations are based upon it.

Outline of Provincial Changes.

364. In the provinces, the main consequences of adopting our proposals would be as follows :—

The boundary now set up between departments of which Indian Ministers may take charge and departments from which they are excluded will be removed, and thus dyarchy will terminate.*

The conduct of provincial administration as a whole will rest with a provincial Cabinet, the members of which will be chosen by the Governor. These Ministers, whether elected members of the legislature or not, will have joint responsibility for action and policy. The constitution of the provincial Cabinet will be elastic and, where and when the Governor considers it necessary, it will contain an official element.*

The powers of the Governor for certain essential purposes, such as the protection of minorities, and of the civil service, will be defined, and will be exercised within the limits and under the conditions we have described.†

Full powers of intervention in the event of a breakdown will remain in the hands of the Governor, subject to the direction of the Governor-General.‡

The Provincial Legislatures will be based upon a widened franchise—the extension we propose would treble the electorate and would include the admission of a larger number of women voters.§

Certain important minorities will be adequately protected by the continuance of communal electorates unless and until agreement can be reached upon a better method.||

The Depressed Classes will get representation by reservation of seats¶

The Legislatures will be enlarged, and the constituencies reduced to a more manageable size. The Provincial Councils instead of being, as at present, purely legislative bodies, will acquire certain powers of recasting their own representative system, so that each province may advance to self-government on lines which are found to be best suited for its individual needs, subject always to securing that the vote of the majority shall not introduce constitutional changes which would prejudice minority rights.**

The provinces will be provided with enlarged financial resources.††

As for provincial areas, the question whether some redistribution is desirable will at once be taken up; such cases as those of Sind and the Oriya-speaking peoples will be the first to be considered.‡‡

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* Part II., Ch. 1. † id. para. 50. ‡ id. para. 65.
§ Part II., Ch. 3. || Part II., Ch. 2., paras. 69–76.
¶ id. paras. 78–80. ** Part II., Ch. 2, paras. 68 and 94/5.
†† Paras. 158–163 and 188. ‡‡ Part II., Ch. I., para. 38.

Burma, which is admittedly not a natural part of British India, will be separated forthwith. Provision must be made without delay for framing its future constitution.*

The administered areas of the North-West Frontier Province will now receive an advance in constitutional status represented by the creation of a local legislature, with powers which we have described. Both it and Baluchistan will acquire the right to representation at the Centre.†

The complicated and interlacing systems of administration of the Backward Tracts will be revised, and such parts of these as remain excluded areas will come under the charge of the central administration.‡

Modifications at the Centre.

365. We now pass to the Centre.

The Legislative Assembly, which should be called the "Federal Assembly," will be reconstituted on the basis of the representation of the Provinces and other areas in British India according to population. Members representing Governors' Provinces will be elected by the Provincial Councils by the method of proportional representation, which will ensure that members belonging to minority communities will be included in sufficient numbers in the Federal Assembly. Members will be returned from the North-West Frontier Province and other areas outside the Governors' Provinces by methods appropriate to each case. The official members of the Federal Assembly will consist of such members of the Governor-General's Council as sit in the Lower House, together with twelve other nominated officials.§

The Council of State will continue with its existing functions as a body of elected and nominated members chosen in the same proportions as at present. Its members, who must have high qualifications, will, so far as they are elected, be chosen by indirect election carried out by provincial Second Chambers if such bodies are constituted, or, failing this, by the Provincial Councils.‖

The existing legislative and financial powers of the two Chambers of the Central Legislature will remain as at present, but the Federal Assembly will also have the special function of voting certain indirect taxes, collected by a central agency, the net proceeds of which will fall into a Provincial Fund for the purpose of being distributed amongst the different units represented in the Federal Assembly.¶

The Central Executive will continue to be the Governor-General in Council, but the Governor-General will henceforward be the authority who will select and appoint his Executive Councillors. Existing qualifications will remain, but will be laid down in statutory rules made under the new

* Part VI. † Part III., Ch. 1. ‡ Part III., Ch. 2.
§ Part IV., Ch. 1. ‖ id. paras. 147–151.
¶ Part IV., Ch. 1, paras. 159 and 163.

Government of India Act, so that when occasion arises to modify these conditions hereafter this may be done without passing a new Act of Parliament. But any modification in the statutory rules made for this purpose would require to be laid before both Houses of Parliament and the approval of both Houses expressed by resolution.*

It is proposed that among the members of the Governor-General's Council should be one whose primary function it would be to lead the Federal Assembly. We have made other suggestions relating to the composition and character of the Governor-General's Council, and we propose that the Commander-in-chief should no longer be a member of it, or of the Central Legislature.†

The Army.

366. We have suggested for consideration a method by which, if agreement could be reached, the obstacle which the composition and functions of the Army in India present to the more rapid development of responsible government might be removed through treating the defence of India as a matter which should fall within the responsibilities of the Governor-General, advised by the Commander-in-Chief, as representing the Imperial authorities, instead of being part of the responsibilities of the Government of India in relation to the Central Legislature.‡

Civil Services, High Courts, India Office.

367. As regards the Civil Services of India, the Security Services must continue to be recruited as All-India Services by the Secretary of State, and their existing rights must be maintained. These Security Services include the Indian Civil Service and the Indian Police Service. It is a matter for consideration whether the Irrigation Service and the Forest Service should not be similarly recruited. The privilege of premature retirement will be extended.§

The rates of Indianisation laid down by the Lee Commission for the Security Services will be maintained.

In addition to the existing Public Service Commission, we intend that there should be established by Statute similar bodies covering the provincial and subordinate services in all the Provinces.‖

The High Courts will be centralised, and the expenses of the High Courts will become a central charge.¶

As regards the India Office, the Governor-General in Council will remain in constitutional theory under the superintendence, direction and control of the Secretary of State, and the extent to which this control is relaxed or falls into desuetude will depend upon future practice, and cannot be laid down in the Statute.**

* Part IV., Ch. 2. † id. paras. 170–173. ‡ Part V. § Part IX.
‖ id. paras. 339–340. ¶ Part X. ** Part XI.

Apart from the Secretary c State's authority over the Governor-General in Council, he will exercise no control over Provincial Governments, save in so far as he does so in connection with the exercise of special powers vested in the Governor.

The functions and composition of the Council of India will be modified. Its size will be reduced, and the majority of its members should have the qualification of more recent Indian experience than is required at present. The Council will exist primarily as an advisory body, but independent powers will continue for (1) the control of Service conditions, and (2) the control of non-votable Indian expenditure.*

Indian States.

368. Lastly, for the purpose of promoting the closer association with British India of the Indian States in matters of common concern for India as a whole, we propose that the new Act should provide that it shall be lawful for the Crown to create a Council for Greater India, containing both representatives of the States and members representing British India. This Council would have consultative and deliberative functions in regard to a scheduled list of "matters of common concern," together with such other subjects of common concern as the Viceroy from time to time certifies as suitable for consideration by the Council. We refer to Part VII of this volume for a more detailed account of the machinery and methods which we contemplate, and we put forward the proposals as designed to make a beginning in the process which may lead to the Federation of Greater India.

Conclusion.

369. In writing this Report we have made no allusion to the events of the last few months in India. In fact, the whole of our principal recommendations were arrived at and unanimously agreed upon before these events occurred. We have not altered a line of our Report on that account, for it is necessary to look beyond particular incidents and to take a longer view.

Our object throughout has been to bring to the notice of the British Parliament and the British people such information as we are able to supply about the general conditions of the problem which now awaits solution, together with our considered proposals. We hope, at the same time, that our Indian fellow-subjects, after doing us the courtesy of studying the Report as a whole (for isolated sentences may give to any reader a wrong impression), will find that what we have put forward has been written in a spirit of genuine sympathy.

No one of either race ought to be so foolish as to deny the greatness of the contribution which Britain has made to Indian progress. It is not racial prejudice, nor imperialistic ambition,

* Part XI., paras. 355–357.

nor commercial interest, which makes us say so plainly. It is a tremendous achievement to have brought to the Indian sub-continent and to have applied in practice the conceptions of impartial justice, of the rule of law, of respect for equal civic rights without reference to class or creed, and of a disinterested and incorruptible civil service. These are essential elements in any state which is advancing towards well-ordered self-government. In his heart, even the bitterest critic of British administration in India knows that India has owed these things mainly to Britain. But, when all this is said, it still leaves out of account the condition essential to the peaceful advance of India, and Indian statesmanship has now a great part to play. Success can only be achieved by sustained goodwill and co-operation, both between the great religious communities of India which have so constantly been in conflict, and between India and Britain. For the future of India depends on the collaboration of East and West, and each has much to learn from the other.

We have grown to understand something of the ideals which are inspiring the Indian national movement, and no man who has taken part in working the representative institutions of Britain can fail to sympathise with the desire of others to secure for their own land a similar development. But a constitution is something more than a generalisation : it has to present a constructive scheme. We submit our Report in the hope that it may furnish materials and suggest a plan by means of which Indian constitutional reconstruction may be peacefully and surely promoted.

All of which we submit for Your Majesty's gracious consideration.

JOHN SIMON,
Chairman.
BURNHAM.
STRATHCONA.
EDWARD CADOGAN.
VERNON HARTSHORN.
G. R. LANE FOX.
C. R. ATTLEE.

S. F. STEWART,
Secretary.

London, 27*th May*, 1930.

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